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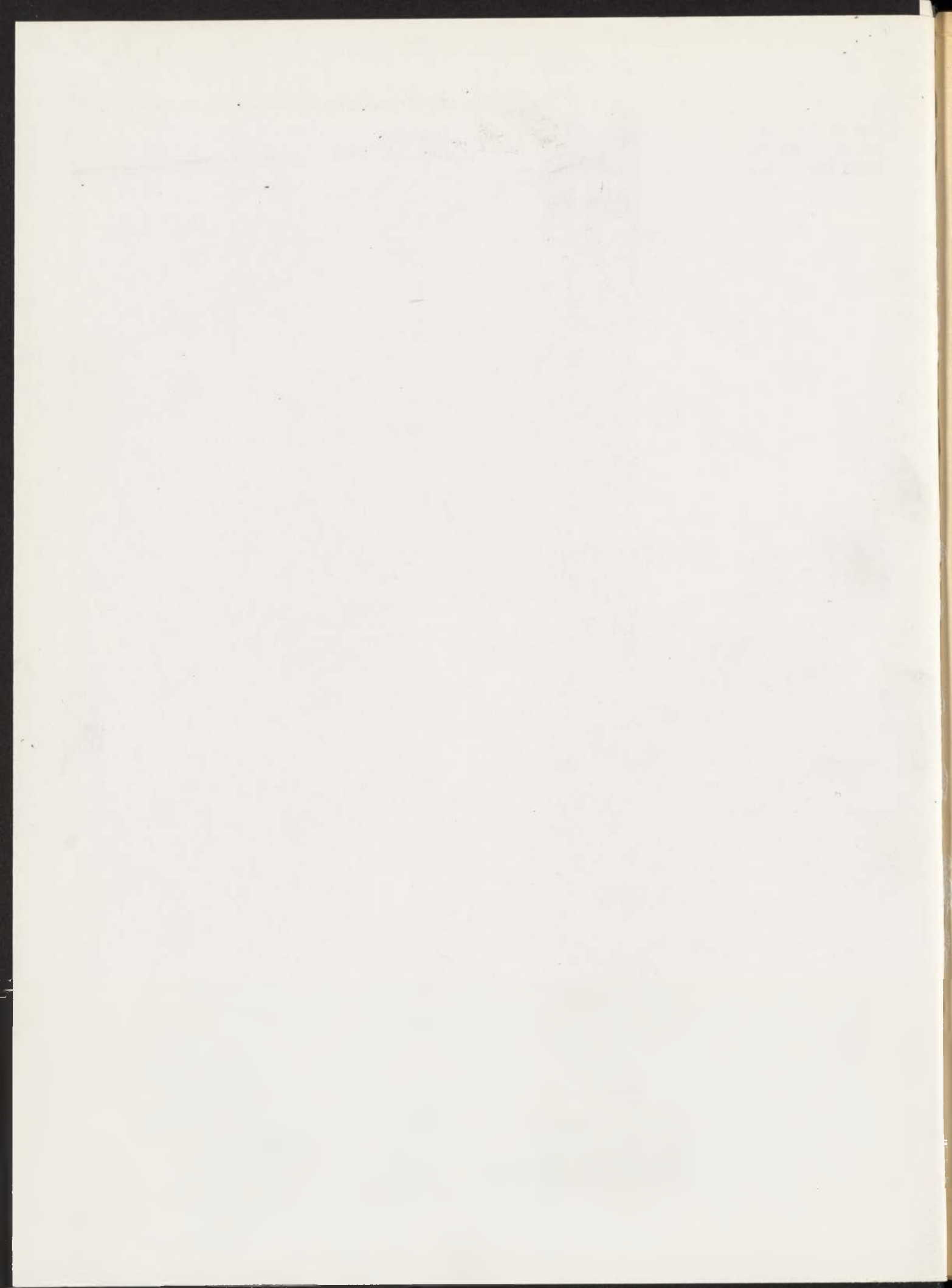
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Estuaries and Coasts



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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[FV-91-265 FR]

Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Suspension of a Provision Regarding the Month in Which To Conduct a Continuance Referendum Under the Cranberry Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is adopting, without modification, as a final rule the provisions of a temporary suspension of an order provision which required a continuance referendum to be conducted on the marketing order for cranberries grown in 10 States during the month of May 1991. (56 FR 21444, May 9, 1991). The order currently specifies that a continuance referendum should be conducted every four years in the month of May, commencing in 1975. The suspension of the continuance referendum date allows the U.S. Department of Agriculture (Department) to delay conducting a continuance referendum until 1992, as recommended by the Cranberry Marketing Committee (Committee). The Committee is responsible for local administration of the marketing order.

DATES: The partial suspension of § 929.68 published on May 9, 1991 was

in effect from May 9, 1991 through May 31, 1991.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-5, P.O. Box 96456, Washington, DC 20090-6456 telephone: (202) 475-3920.

SUPPLEMENTARY INFORMATION: This suspension is issued under Marketing Order No. 929 (7 CFR part 929), as amended, regulating the handling of cranberries grown in 10 states. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers of cranberries subject to regulation under the cranberry marketing order and approximately 950 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of handlers and producers of cranberries may be classified as small entities.

This action finalizes the May 9, 1991 (56 FR 21444) suspension of the provision in the order which specified the month in which a continuance

referendum should be conducted to determine if producers favor the continuance of the cranberry marketing order. That date is specified in § 929.68(d) of the order. The suspension was unanimously recommended by the Committee at its March 6, 1991, meeting.

Section 929.68(d) of the order provided that the Secretary shall conduct a referendum during the month of May 1975 to ascertain whether continuance of this part is favored by the producers, and that the Secretary shall conduct such a referendum during the month of May of every fourth year thereafter. A continuance referendum was therefore scheduled to be conducted in May 1991.

In August 1989, the Committee recommended several amendments to the marketing order. The Administrator issued a Recommended Decision (January 18, 1991, 56 FR 1938) on these amendments. Exceptions to the Recommended Decision were due on March 15, 1991. Under the applicable rules of practice (7 CFR part 900), the next step in the amendment process is for the Secretary to consider the record including any exceptions to the Recommended Decision and then issue a Secretary's Decision and, if warranted, a Referendum Order. Without this suspension, it was possible that any referendum on the order amendments would coincide with or closely follow a continuance referendum.

Therefore, the provisions regarding the May 1991 continuance referendum were temporarily suspended from May 9, 1991, through May 31, 1991, in order to allow the Department to complete the amendatory proceeding prior to conducting a continuance referendum. Although the suspension postpones the next continuance referendum for the cranberry marketing order until May 1995, as provided in § 929.68(d), the Committee also recommended that the Secretary conduct a continuance referendum prior to May 1992. We expect that such continuance referendum would be conducted sometime between January 1992 and May 1992, following the cranberry harvest.

This action will not have a significant economic impact on small producers or handlers. The temporary suspension of the order provision allows the Secretary

to conduct a continuance referendum later than the May 1991 date specified in the order. Thus, there is no significant economic impact anticipated.

No comments were received on the temporary suspension during the comment period which ended on May 24, 1991.

Based on available information, the Administrator of the AMS has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all available information, it is found that the second sentence in § 929.68(d), does not tend to effectuate the declared policy of the Act for the period specified herein and should be temporarily suspended for that period.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because this final rule is an adoption, without modification, of a temporary suspension of an order provision which was suspended from May 9 through May 31, 1991.

List of Subjects in 7 CFR Part 29

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Accordingly, the temporary suspension of the order provision in § 929.68(d), from May 9, 1991 through May 31, 1991, which was published at 56 FR 21444 on May 9, 1991, is adopted as a final rule without change.

Dated: July 17, 1991.

JoAnn R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 91-17566 Filed 7-29-91; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AC83

Full-Time Attendance by Elementary or Secondary School Student

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are amending our rule on full-time attendance by an elementary or secondary school student to provide that, in some situations, we may determine that scheduled attendance of fewer than 20 hours per week will be considered full-time attendance for purposes of entitlement to child's insurance benefits. We believe that this amendment will enable us to fulfill more equitably the intent of Congress in providing these benefits.

EFFECTIVE DATE: This rule is effective July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-8471.

SUPPLEMENTARY INFORMATION: With several exceptions, child's insurance benefits under the Social Security Act (the Act) usually terminate when the child attains age 18. One exception allows benefits for persons under age 19 who are full-time elementary or secondary school students.

Section 202(d)(7)(A) of the Act, 42 U.S.C. 402(d)(7)(A) provides that a full-time elementary or secondary school student is an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Secretary of Health and Human Services, in accordance with regulations prescribed by him, in the light of the standards and practices of the schools involved.

Our regulation requires that an elementary or secondary school student must be scheduled to attend school at least 20 hours per week to be considered a full-time student. Our experience has shown that this is generally a reasonable standard. However, we are aware that there are some unique situations in which students are enrolled for full-time attendance under the school's standards and practices but, because of special circumstances, the students are unable to schedule attendance of at least 20 hours per week.

For example, in the case of *Haberman v. Finch*, 418 F. 2d 664 (2d Cir. 1969), a claimant had been forced to discontinue her schooling at age 14 because of a serious illness. When she was able to resume school at age 17, she applied for admission to the public and private schools where she lived, and was told by school authorities that she was too old to enroll as a full-time high school day student. The only program available to her was an evening high school program at a fully accredited private school that enabled her to take 16½ hours of class per week. This scheduled attendance was considered to be the equivalent of full-time day instruction. The court held that where a child takes the maximum number of hours available in the only accredited school program available to the child and meets the other conditions for entitlement to child's benefits, there should be little question of the child's right to receive benefits under a limited exception to the 20-hour rule.

For the above reasons, we are amending § 404.367(b) to provide for exceptions to the 20-hour rule where the student is considered to be full-time for day students under the school's standards and practices and either the school does not schedule at least 20 hours per week for the child and attending that school is the student's only reasonable alternative, or the student's medical condition prevents him or her from scheduled attendance of at least 20 hours per week. We believe that this modification to our rules is consistent with the intent of Congress that child's insurance benefits be paid to full-time elementary or secondary school students under age 19 who have suffered a loss of parental support. Our experience has shown that 20 hours per week is a reasonable attendance standard for most students, but that there is a need to provide for exceptional situations, such as the one presented in *Haberman*, where students are prevented by reasons beyond their control from enrolling in a program that provides for attendance of at least 20 hours per week.

Discussion of Comments

On September 8, 1990, a proposed rule was published in the *Federal Register* at 55 FR 36656 with a 60-day comment period. We received comments from one individual. The commenter believes that the school's statement that a student is prevented from enrolling for at least 20 hours per week should be sufficient cause to grant an exception. Paragraph (b)(2) of this final regulation § 404.367 provides that we may request medical

evidence or a statement from the school. In many cases, we may find that the statement from the school is sufficient evidence to support a determination that the exception has been met. In order to ensure that benefits under the Act are paid properly, however, we believe that we must reserve the right to seek additional evidence, and possibly to reject the statement from the school, when appropriate. Accordingly, we have not changed the final rule.

The commenter also suggests that we amend our regulation to provide that benefits may be paid to a high school student who is no older than 20 years old. However, the age at which child's insurance benefits payable to a full-time elementary or secondary school student must cease is prescribed by statute in sections 202(d)(1) and 202(d)(7)(D) of the Act, as reflected in § 404.352(b)(1) of our regulation. Although there are limited circumstances in which a student may continue to receive benefits for a few months after he or she attains age 19, the statute does not permit the extension suggested by the commenter. For the reasons stated above, we have not revised the proposed rule based on the comments.

We have, however, replaced the reference to an "illness" in § 404.367(b)(2) with a reference to a "medical condition" because we believe that this broader reference more clearly expresses our policy.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the small number of cases involved will result in negligible program and administrative costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities since this rule affects only the entitlement of individuals to monthly benefits. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors, and Disability Insurance.

Dated: May 8, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: June 26, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Subpart D of part 404 of 20 CFR chapter III is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950—)

1. The authority citation for subpart D continues to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 228(a)–(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 428(a)–(e), and 1302.

2. Section 404.367 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 404.367 When you are a "full-time elementary or secondary school student."

Beginning August 1982, you may be eligible for child's benefits if you are a full-time elementary or secondary school student. For the purposes of determining whether the conditions of entitlement are met throughout the first month as stated in § 404.352(a)(2)(i), if you are entitled as a student on the basis of attendance at an elementary or secondary school, you will be considered to be in full-time attendance for a month during any part of which you are in full-time attendance. You are a full-time elementary or secondary school student if you meet all the following conditions:

* * * * *

(b) You are in full-time attendance in a day or evening noncorrespondence course of at least 13 weeks duration and are carrying a subject load which is considered full-time for day students under the institution's standards and practices. Additionally, your scheduled attendance must be at the rate of at least 20 hours per week unless we find that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is your only reasonable alternative; or

(2) Your medical condition prevents you from having scheduled attendance of at least 20 hours per week. To prove that your medical condition prevents you from scheduling 20 hours per week,

we may request that you provide appropriate medical evidence or a statement from the school.

* * * * *

[FR Doc. 91-17963 Filed 7-29-91; 8:45 am]

BILLING CODE 4190-29-M

20 CFR Part 416

[Regulations No. 16]

RIN 0960-AC52

Supplemental Security Income for the Aged, Blind, and Disabled; Death Benefits Spent on Last Illness and Burial

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: The regulations are being amended to include the provisions of section 9120 of Public Law 100-203 (the Omnibus Budget Reconciliation Act of 1987) enacted December 22, 1987. Section 9120, which became effective April 1, 1988, amended section 1612(a)(2)(D) and (E) of the Social Security Act (the Act) to provide that payments to an individual (including gifts and inheritances) occasioned by the death of another person will not be considered income for supplemental security income (SSI) purposes to the individual receiving them to the extent that they are used to pay for the deceased person's last illness and burial. In addition, the final rule provides that death benefits to be spent on a last illness and burial, if not yet spent by the first of the month following the month of receipt, will not be considered as resources of the individual receiving them for 1 calendar month after the month of receipt. The purpose of this change in the regulations is to allow a reasonable time for the death benefits to be used for payment of debts accruing from the deceased person's last illness and burial before those death benefits affect the SSI eligibility of the individual who received them.

EFFECTIVE DATE: July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Legal Assistant, 3-B-1 Operations Building, 6401 Security Blvd., Baltimore, MD 21235, (301) 965-8470.

SUPPLEMENTARY INFORMATION: Under the law prior to the enactment of Public Law 100-203 (the Omnibus Budget Reconciliation Act of 1987), when an individual received payments as a beneficiary of a life insurance policy, the payments were counted as income for SSI purposes except for any amount up

to \$1,500 that the individual spent for the insured's last illness and burial expenses. Illness and burial expenses include related hospital and medical expenses, funeral, burial plot and interment expenses, and other related costs.

Section 9120 of Public Law 100-203 removed the \$1,500 limit on the amount of the proceeds of a life insurance policy that would not be treated as income if spent on the last illness and burial of the deceased and also removed from consideration as income for SSI purposes other payments occasioned by the death of a person, including gifts and inheritances, which are spent on the deceased person's last illness and burial. Sections 416.1121 (e) and (g) of the regulations are revised to reflect these statutory changes. Section 9120, however, made no change regarding the treatment of these funds as resources for SSI purposes. Under current policy and regulations, death benefits retained until the month following the month of receipt are considered countable resources.

Recognizing that the recipient of death benefits who uses all or part of those benefits to pay the expenses of the deceased person's last illness and burial may not always be able to do so in the same month in which he or she receives them, the final rule at § 416.1201(a)(4) also would make a change in current policy regarding treatment of these funds as resources. In order to allow a reasonable time for payment of the expenses of the deceased person's last illness and burial before the death benefits affect the SSI eligibility of the recipient, these final regulations provide that death benefits to be spent on outstanding debts resulting from the last illness and burial will not be considered resources of the individual receiving them for the calendar month after the month of receipt.

We believe that such a change in the resources rule is consistent with, and will help effectuate, the legislative intent underlying section 9120 of Public Law 100-203. That intent was to prevent a reduction or cessation of SSI benefits on account of receipt of death benefits not intended to assist the recipient in meeting needs of food, clothing, or shelter where these benefits are used to pay the expenses of the deceased's last illness and burial. The 1-month grace period will enable the recipient to use these benefits to meet burial expenses without suffering the loss of SSI benefits and thus will effectuate this intent. We are promulgating this change based on the Secretary's general rulemaking authority conferred by sections 1102 and 1631(d)(1) of the Act.

Public comment

A notice of proposed rulemaking (NPRM) was published on April 30, 1990, at 55 FR 17999. A 60-day comment period was provided. The comment period ended June 29, 1990. We received one comment. The comment was from an individual who generally supported the NPRM. We have summarized and responded to the individual's comment below.

Comment

The commenter suggested that since many vendors, such as medical, funeral, and burial service providers, are slow in billing, the regulations should provide, in the case of an estate, that SSA will wait until the time for the filing of creditor's claims against the estate has expired, as determined under the State law, before counting for SSI purposes any portion of the death benefits.

Response

We understand that there may be cases where the billing for services is slow. However, this does not preclude the individual from requesting a bill from the service provider. In the event the funeral service provider is unknown, this information may be obtained from the family members of the decedent, the person administering the decedent's estate, or from the obituaries in the local newspaper. The attending physician can provide information as to the hospitals involved and the medical services that he or she authorized.

As indicated elsewhere in this preamble, we have provided a reasonable amount of time, not less than 28 days or more than 61 days depending on when the benefits were received, for payment of these expenses before we count the benefits received which were occasioned by the death of another person as a resource. We believe that this time period is sufficient for payment of these expenses without creating hardship on the part of the SSI recipient and, at the same time, is administratively efficient. Therefore, we are rejecting the change suggested.

We are adopting these regulations as proposed.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291, because the program and administrative costs will be insignificant and savings are estimated at less than \$1 million a year. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act of 1980

These final regulations impose no reporting and recordkeeping requirements necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: May 8, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: June 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, part 416 of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart K of part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154; sec. 2639 of Pub. L. 98-369; 98 Stat. 1144.

2. In § 416.1121, paragraphs (e) and (g) are revised to read as follows:

§ 416.1121 Types of unearned income.

* * * * *

(e) *Death benefits.* We count payments you get which were occasioned by the death of another person except for the amount of such payments that you spend on the deceased person's last illness and burial expenses. Last illness and burial expenses include related hospital and medical expenses, funeral, burial plot and interment expenses, and other related costs.

Example: If you receive \$2,000 from your uncle's life insurance policy and you spend \$900 on his last illness and burial expenses, the balance, \$1,100, is unearned income. If you spend the entire \$2,000 for the last illness and burial, there is no unearned income.

* * * * *

(g) *Gifts and inheritances.* A gift is something you receive which is not repayment to you for goods or services you provided and which is not given to you because of a legal obligation on the giver's part. An inheritance is something that comes to you as a result of someone's death. It can be in cash or in kind, including any right in real or personal property. Gifts and inheritances occasioned by the death of another person, to the extent that they are used to pay the expenses of the deceased's last illness and burial, as defined in paragraph (e) of this section, are not considered income.

3. The authority citation for subpart L of part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1361a, 1362, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93-66; 87 Stat. 154.

4. In § 416.1201(a), paragraph (a)(4) is added to read as follows:

§ 416.1201 Resources; general.

(a) *Resources; defined.* * * *

(4) Death benefits, including gifts and inheritances, received by an individual, to the extent that they are not income in accordance with paragraphs (e) and (g) of § 416.1121 because they are to be spent on costs resulting from the last illness and burial of the deceased, are not resources for the calendar month following the month of receipt. However, such death benefits retained until the first moment of the second calendar month following their receipt are resources at that time.

[FR Doc. 91-17964 Filed 7-29-91; 8:45 am]
BILLING CODE 4190-29-M

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Office of the Commissioner

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to general redelegations of authority from the Commissioner of Food and Drugs to other officers of the Food and Drug Administration to redelegate to the Deputy Commissioner for Policy the authority to approve

notices and regulations. This action is being taken to reflect an organizational change in the Office of the Commissioner. This action is an interim measure that may be supplemented in the future by additional or revised delegations. This action does not affect previous delegations to FDA's center directors or other officials to issue specific types of regulations or notices.

EFFECTIVE DATE: July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA-300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: FDA is amending the delegations of authority under § 5.20 *General redelegations of authority from the Commissioner to other officers of the Food and Drug Administration* (21 CFR 5.20) to redelegate to the Deputy Commissioner for Policy the authority to approve notices and regulations. This redelegation reflects an organizational change in the Office of the Commissioner.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 636, 1261-1282, 3701-3711a; secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 21 U.S.C. 41-50, 61-63, 141-149, 467f, 679(b), 801-886, 1031-1309; secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-393); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354-360F, 361, 362, 1701-1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 2421, 242n, 243, 262, 263, 263b-263n, 264, 265, 300u-300u-5, 300aa-1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007-10008; E.O. 11490, 11921, and 12591.

2. Section 5.20 is amended by redesignating paragraph (e) as

paragraph (f) and by adding a new paragraph (e) to read as follows:

§ 5.20 General redelegations of authority from the Commissioner to other officers of the Food and Drug Administration.

(e)(1) The Deputy Commissioner for Policy is authorized to perform any of the functions of the Commissioner of Food and Drugs with respect to the issuance of Federal Register notices and proposed and final regulations of the Food and Drug Administration.

(2) The Deputy Commissioner for Policy is authorized to issue responses to the following matters under part 10 of this chapter as follows:

(i) Requests for waiver, suspension, or modification of procedural requirements under § 10.19;

(ii) Citizen petitions under § 10.30;

(iii) Petitions for reconsideration under § 10.33;

(iv) Petitions for stay under § 10.35; or

(v) Requests for advisory opinions under § 10.85.

(3) With respect to any matter delegated to the Deputy Commissioner for Policy under this paragraph, the Deputy Commissioner for Policy is authorized to perform the functions of the Commissioner under §§ 10.40, 10.45, 10.50, 10.55, 10.60, 10.65, 10.80, 10.90, and 10.95 and of the Deputy Commissioner under § 10.206 (g) and (h) of this chapter.

Dated: July 25, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-18141 Filed 7-29-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 880 and 881

[Docket No. R-91-1544; FR-2950-F-01]

RIN 2502-AF31

Section 8 Housing Assistance Payments Program for New Construction and Substantial Rehabilitation—Fair Market Rents, Redlegation of Authority to Regional Administrators

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule redelegates to Regional Administrators the authority to approve gross rents which exceed the published Fair Market Rents (FMRs) by up to 20 percent. This redelegation of authority to the Regional Administrator will reduce the number of routine rent prerogative reviews and approvals at the Headquarters level.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT:

Linda Cheatham, Acting Director, Office of Insured Multifamily Housing Development, Department of Housing and Urban Development, room 8134, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-3000. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rule amends 24 CFR parts 880 and 881 to redelegate to the Regional Administrator the authority to approve gross rents which exceed published Fair Market Rents (FMRs) by up to 20 percent. Before promulgation of this redelegation, this authority was reserved to the Assistant Secretary for Housing. This redelegation of authority to the Regional Administrator will reduce the number of routine rent prerogative reviews and approvals at the Headquarters level.

In compliance with 24 CFR 10.1, the Department has determined that notice and public procedure may be omitted in the promulgation of this final rule. Inasmuch as this rule governs the Department's internal procedure for approvals of gross rents which exceed the published Fair Market Rents (FMRs) by up to 20 percent, notice and public procedure are unnecessary.

Other Matters

Environmental Review

HUD regulations in 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities, and programs specified in 50.20. Since the redelegation of authority set forth in this notice and the statutorily required establishment of a fair market rent ceiling are within the exclusions set forth in 24 CFR 50.20(k) and 50.20(1), respectively, no environmental assessment is required, and no environmental finding has been prepared.

Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued on February 17, 1981. An analysis of the rule indicates that it will not: (1) have an annual effect on the

economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact in a substantial number of small entities, because it merely effects a redelegation of authority.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being.

Semiannual Agenda of Regulations

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 22, 1991 (56 FR 17360) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 880

Grant programs—housing and community development, Rent subsidies, Reporting and record keeping requirements.

24 CFR Part 881

Grant programs—housing and community development, Rent subsidies, Reporting and record keeping requirements.

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

1. The authority citation for part 880 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Paragraph (b)(1)(i)(B) of § 880.204 is revised to read as follows:

§ 880.204 Limitations on contract rents, replacement costs and amenities.

* * * * *

(b)(1) * * *

(i) * * *

(B) Except in the case of the rental of a manufactured home space only, by up to 20 percent with the approval of the Regional Administrator.

* * * * *

PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR SUBSTANTIAL REHABILITATION

3. The authority for part 881 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Paragraph (b)(1)(i)(B) of § 881.204 is revised to read as follows:

§ 881.204 Limitations on contract rents, replacement costs and amenities.

* * * * *

(b)(1) * * *

(i) * * *

(B) Except in the case of the rental of a manufactured home space only, by up to 20 percent with the approval of the Regional Administrator.

* * * * *

Dated: July 3, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 91-17972 Filed 7-29-91; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 266

[DoD Directive 7600.10]

Audits of State and Local Governments, Institutions of Higher Education, and Other Nonprofit Institutions

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule revises 32 CFR part 266 to reflect the inclusion of audits of institutions of higher education and other nonprofit institutions that receive

Federal financial assistance. This revision is necessary to reflect the requirements of Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions," March 16, 1990.

DATES: *Effective date:* June 19, 1991.

Comment date: Comments may be received by August 29, 1991.

ADDRESSES: Forward comments to: Office of Assistant Inspector General for Audit Policy and Oversight, Office of Inspector General, Department of Defense, 400 Army Navy Drive, room 1076, Arlington, VA 22202-2884.

FOR FURTHER INFORMATION CONTACT: Mr. Michael R. Hill, (703) 693-0003.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 266

Accounting, Grant programs, Indians, Intergovernmental relations.

Accordingly, 32 CFR part 266 is revised to read as follows:

PART 266—AUDITS OF STATE AND LOCAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER NONPROFIT INSTITUTIONS

Sec.

- 266.1 Purpose.
- 266.2 Applicability.
- 266.3 Definitions.
- 266.4 Policy.
- 266.5 Responsibilities.
- 266.6 Procedures.

Authority: 10 U.S.C. 140.

§ 266.1 Purpose.

This part:

- (a) Updates policy, responsibilities, and procedures.
- (b) Implements Public Law 98-502 (31 U.S.C. 7501-7507 and 3512) and Office of Management and Budget (OMB) Circulars A-128¹ and A-133² to establish audit requirements for State and local governments, institutions of higher education, and other nonprofit institutions that receive Federal financial assistance.
- (c) Assigns responsibilities within the Department of Defense for monitoring compliance with those requirements.

§ 266.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the

Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components") that provide Federal financial assistance to State and local governments, institutions of higher education, and other nonprofit institutions.

§ 266.3 Definitions.

Terms used in this part are defined in OMB Circulars A-128 and A-133 with the following deviation. Funds paid by the National Guard Bureau to States under facilities' operation and maintenance agreements do not constitute "Federal financial assistance" for purposes of Public Law 98-502 and OMB Circular A-128.

§ 266.4 Policy.

The DoD Components shall rely on and use financial and performance audits performed by non-Federal auditors under OMB Circular A-128 and independent auditors under OMB Circular A-133 in the oversight of Federal financial assistance provided to State and local governments, institutions of higher education, and other nonprofit institutions. Public Law 98-502 provides that a non-Federal audit of the operations of a State or local government performed under OMB Circular A-128 may exclude public colleges and universities, in which case an audit of the public college or university shall be made in accordance with OMB Circular A-133. The DoD Components, however, may request additional audits of such assistance when required by regulation or to ensure effective use of such assistance as deemed necessary. Any additional audit effort shall be planned and carried out in such a way as to avoid duplication and shall be separately funded.

§ 266.5 Responsibilities.

(a) The Inspector General of the Department of Defense shall:

- (1) Serve as the DoD senior official under OMB Circulars A-128 and A-133 for policy guidance, direction, and coordination with DoD Components and other Federal Agencies on audit matters related to State and local governments, institutions of higher education and other nonprofit institutions.

(2) For State and local governments, institutions of higher education, and other nonprofit institutions for which the OMB has assigned the DoD cognizance, do the following:

- (i) Ensure that audits are made and reports are received in a timely manner and in accordance with the

requirements of OMB Circulars A-128 and A-133.

(ii) Provide technical advice and liaison through the DoD Components to State and local governments, institutions of higher education, other nonprofit institutions, and independent auditors.

(iii) Make desk reviews of all reports received, and also make quality control reviews of selected audits made by non-Federal audit organizations and provide the results, when appropriate, to other interested organizations.

(iv) Promptly inform other affected Federal Agencies and appropriate law enforcement officials of any reported illegal acts or irregularities in accordance with requirements of OMB Circulars A-128 and A-133.

(v) Advise the recipient of audits that have been found not to have met the requirements in OMB Circulars A-128 and A-133. In such instances, the recipient will work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(vi) Coordinate, to the extent practicable, audits requested by other Federal Agencies, in addition to those required by OMB Circulars A-128 and A-133.

(vii) Ensure the resolution of audit findings and recommendations that affect DoD programs and those findings affecting programs of more than one Federal Agency. Ensure that a management decision affecting audit resolution shall be made within 6 months after receipt of the audit report.

(3) For local governments, institutions of higher education, and other nonprofit institutions for which the Department of Defense has assumed oversight responsibility, do the following:

(i) Provide technical advice and counsel through DoD Components to institutions and independent auditors when requested.

(ii) Assume all or some of the cognizant agency responsibilities (see paragraph (a)(2) of this section), as deemed necessary.

(4) For other State and local governments, institutions of higher education, and other nonprofit institutions, receive and distribute copies of single audit reports to appropriate DoD Components for appropriate action and followup by designated program officials.

¹ Forward written requests to: Office of Management and Budget Publications, 725 17th Street, NW, New Executive Office Building, Washington, DC 20503.

² See footnote 1 to § 266.1(b).

(5) For audit reports that contain conditions affecting DoD programs, institute followup efforts to ensure that corrective actions have been taken by DoD organizations responsible for managing associated programs or funds.

(b) The Heads of the DoD Components shall:

(1) Designate an official to coordinate with the IG, DoD, on matters dealing with audits of financial assistance provided by the DoD Component to State and local governments, institutions of higher education, and other nonprofit institutions.

(2) Ensure input of accurate award data for Federal financial assistance to the appropriate DoD management information system.

(3) Ensure that the State or local government, institution of higher education, or other nonprofit institution takes appropriate actions to correct audit deficiencies involving financial assistance provided by the DoD Component.

(4) For State and local governments, institutions of higher education, and other nonprofit institutions for which the OMB has assigned DoD cognizance, do the following:

(i) Coordinate with the IG, DoD, on requests from other Federal Agencies for audits of State and local governments, institutions of higher education, and other nonprofit institutions, in addition to those required by OMB Circulars A-128 and A-133.

(ii) Seek the views of other interested agencies when a coordinated audit approach is to be used and before completing a coordinated program.

(iii) Help coordinate the audit work and reporting responsibilities among independent public accountants, State auditors, and both resident and non-resident Federal auditors to achieve the most cost-effective audit.

§ 266.6 Procedures.

The costs of audits made by non-Federal auditors under OMB Circulars A-128 and A-133 are allowable charges to Federal financial assistance programs. The charges may be considered as a direct cost or an allocated indirect cost in accordance with OMB Circulars A-87, A-122 and A-21⁹; FAR, Part 31 (48 CFR part 31); or the DFARS, Part 231 (48 CFR part 231). Generally, the percentage of costs charged to Federal assistance programs for an audit shall not exceed the percentage of Federal funds expended to the total funds expended by the recipient during the fiscal year. No cost, however, may be charged to Federal

programs for audits not made in accordance with OMB Circulars A-128 and A-133 and other applicable cost principles and regulations.

Dated: 24 July 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-17953 Filed 7-29-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 91-115]

Safety Zone Regulations: East Passage, Narragansett Bay, RI

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a moving safety zone around participants in the Swim the Bay event and associated craft, in the East of Passage Narragansett Bay, RI between Potter Cove, Jamestown, RI and Coasters Harbor Island, Newport, RI (Position 41-31N, 071-19.8W to 41-31N, 071-22W). The zone is needed to protect participants in the swimming event and the associated craft from inherent hazards associated with vessels transiting the area.

Entry into this zone is prohibited unless authorized by the Captain of the Port Providence.

EFFECTIVE DATE: This regulation becomes effective at 6:30 a.m. on August 3, 1991. It terminates at 10:30 a.m. on August 3, 1991, unless terminated sooner by the Captain of the Port Providence.

FOR FURTHER INFORMATION CONTACT: BM1 Krug at (401) 528-5335.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential damage to craft and potential injury to the persons involved.

Drafting Information

The drafters of this regulation are BM1 Krug, project officer for the Captain of the Port, Providence and Lt. John E. Gately, project attorney, First Coast Guard District Legal Office.

Discussion of Regulations

The circumstances requiring this regulation involve the inherent hazards associated with transiting vessels in the vicinity of participants swimming the breadth of the East Passage of Narragansett Bay, RI. The event is scheduled to take place August 3, 1991, between Potter Cove, Jamestown, RI and Coasters Harbor Island, Newport, RI (Position 41-31N, 071-19.8W to 41-31N, 071-22W). These inherent hazards include, but are not limited to, personal injury and property damage resulting from collisions between participants in the water, or craft associated with the event, and vessels transiting Narragansett Bay. Due to the brief duration of this safety zone, it is believed that the economic impact will be minimal.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—AMENDED

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46; 33 CFR 1.05(g), 6.04-1, 6.04-8, and 160.5.

2. A new § 165.T0110 is added to read as follows:

§ 165.T0110 Safety Zone: East Passage, Narragansett Bay, RI

(a) *Location:* The following area is designated a moving safety zone: (1) A three hundred yard radius around the participants swimming in the event and the associated craft as they transit the East Passage of Narragansett Bay, RI between Potter Cove, Jamestown, RI, and Coasters Harbor Island, Newport, RI (Position 41-31N, 071-19.8W to 41-31N, 071-22W).

(b) *Effective Date:* This regulation becomes effective at 6:30 a.m. on August 3, 1991. It terminates at 10:30 a.m. on August 3, 1991, unless terminated sooner by the Captain of the Port Providence.

(c) *Regulations:* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Providence.

⁹ See footnote 1 to § 266.1(b).

Dated: July 18, 1991.

H.D. Robinson,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 91-18014 Filed 7-29-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD7 90-52]

RIN 2115-AD88

Regulated Navigation Area; Sparkman Channel, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard has designated Sparkman Channel, Tampa, Florida, a regulated navigation area. A pipeline crossing the channel at the southern entrance creates a ridge in the outer quarters of the channel and limits water depths to 37 feet over the pipeline in the center of the channel and to an average of 32 feet in the outer quarters of the channel. To ensure safe navigation in the channel, this rule establishes vessel draft restrictions, limits meeting and passing situations, and requires vessels with drafts greater than 30 feet to transit near the center of the channel.

EFFECTIVE DATE: The regulation is effective July 30, 1991.

FOR FURTHER INFORMATION CONTACT: Lieutenant Paul J. MacDonald, Coast Guard Marine Safety Office, Tampa, Florida (813) 228-2194.

SUPPLEMENTARY INFORMATION: The Coast Guard published an interim final rule, "Regulated Navigation Area; Sparkman Channel, Tampa, FL", on 25 January 1991 at 56 FR 2850. One comment was received. A public hearing was not requested and one was not held.

Regulatory History

The interim final rule designated Sparkman Channel as a regulated navigation area and restricted maximum draft to 35.5 feet. Vessels with a draft of 34.5 feet, but not over 35.5 feet, may transit Sparkman Channel only when the tide is at least one foot above mean

low water. Vessels with a draft of 30 feet or greater must transit as near as possible to the center of the channel. Meeting or overtaking between vessels requiring pilotage is not allowed.

These restrictions are necessary to protect deep draft vessels from an area of hard bottom at the location of a 48 inch sewage pipeline crossing and to protect the environment from oil and chemical spills which may result from ship damage. The pipeline has restricted dredging in the channel, and creates a ridge in the outer quarters where water depths go from 37 feet to an average of 32 feet within an approximate 390 foot section of the channel. This situation reduces the safe navigable channel to 200 feet.

Discussion of Comment

The comment pointed out that the water depth over the pipeline at center channel was incorrectly stated in the interim final rule as 34 feet, when in fact the most recent soundings show 37 feet. The commenter requested that the maximum draft be increased by 6 inches. The Coast Guard agrees that the depth over the pipeline at center channel is 37 feet and that a maximum draft of 34 feet 6 inches at mean low water and 35 feet 6 inches at plus one foot tide and greater is within the safety margins intended by this rule. This final rule reflects the change. A purpose for the regulation has been added to the language of the final rule. The rule has also been reworded to clarify the boundaries of the regulated navigation area.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1989). Changes to the rule as a result of the comment will impose no new cost or burden. Therefore, the Coast Guard certifies under Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

The Coast Guard has reviewed this rule and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.b.2 of Commandant Instruction (COMDINST) M16475.1B. A Categorical Exclusion Determination statement has been prepared and is included as part of the rulemaking docket.

Federalism

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Security measures, Waterways, Regulated navigation areas, and Limited access areas.

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5, 49 CFR 1.46.

2. Section 165.752 is added to read as follows:

§ 165.752 Sparkman Channel, Tampa, Florida—regulated navigation area.

(a) A regulated navigation area is established to protect vessels from limited water depth in Sparkman Channel caused by an underwater pipeline. The regulated navigation area is in Sparkman Channel between the lines connecting the following points (referenced in NAD 83):

	Latitude	Longitude		Latitude	Longitude
1:	27-56-20.5 N	082-26-42.0 W	to	27-56-19.3 N	82-26-37.5 W
2:	27-55-32.0 N	082-26-54.0 W	to	27-55-30.9 N	82-26-49.1 W

(b) Ships requiring Federal or State pilotage shall not meet or overtake other like vessels in Sparkman Channel.

(c) Vessels having a draft of more than 35.5 feet may not transit Sparkman Channel.

(d) Vessels having a draft of 34.5 feet, but not over 35.5 feet, may transit Sparkman Channel only when the tide is at least one foot above mean low water.

(e) Vessels with a draft of 30 feet or greater shall transit as near as possible to the center of the channel.

Dated: May 13, 1991.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 91-17983 Filed 7-29-91; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3969-4]

Approval and Promulgation of State Implementation Plans; OR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this notice, EPA is approving numerous revisions to the Oregon state implementation plan (SIP) as submitted by the State of Oregon Department of Environmental Quality on May 31, 1986 and July 11, 1986. This action will result in an updated SIP, rescinding provisions which are no longer needed, revising and updating certain rules and sections of the SIP and adding rules which were not previously included in the SIP. These revisions were submitted to satisfy the requirements of section 110 of the Clean Air Act (hereinafter referred to as the Act).

EFFECTIVE DATE: July 30, 1991.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Public Information Reference Unit,
Environmental Protection Agency, 401 M
Street SW., Washington, DC 20460.
Air Programs Branch, Docket OR3-1-5157,
Environmental Protection Agency, 1200
Sixth Avenue, AT-082, Seattle, Washington
98101.

State of Oregon, Department of
Environmental Quality, 811 SW., Sixth,
Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT:
David Bray, Air Programs Branch, AT-
082, Environmental Protection Agency,
1200 Sixth Avenue, Seattle, Washington

98101, telephone: (206) 553-4253, FTS:
399-4253.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act of 1970 required states to submit state implementation plans (SIPs) to EPA which provided for implementation, maintenance and enforcement of the national ambient air quality standards. The SIP contains statutes, rules, strategies, and programs which demonstrate a state's ability to attain and/or maintain compliance with the national ambient air quality standards (NAAQS) in all areas. In 1972, the Oregon Environmental Quality Commission adopted the initial Oregon SIP which was approved by EPA on May 31, 1972 (37 FR 10888). As a result of the Clean Air Act Amendments of 1977, the Oregon Department of Environmental Quality (ODEQ) submitted a revised SIP on June 27, 1979, and July 6, 1979, portions of which were approved by EPA on June 24, 1980 (45 FR 42265).

Since 1972 ODEQ has been responsible for developing revisions and additions to the SIP as needed to maintain the NAAQS. During the past 16 years there have been numerous SIP revisions submitted by ODEQ, some of which have been approved by EPA and some of which have yet to be acted upon. As a result, the contents of the EPA-approved Oregon SIP were often in question. To rectify this problem, ODEQ undertook a several-year effort to revise and reorganize its entire SIP.

On May 30, 1986, the State of Oregon Department of Environmental Quality (ODEQ) submitted to EPA a request to rescind the existing SIP and replace it with an updated SIP. Additionally, on July 11, 1986, ODEQ submitted the "Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area" (OAR 340-30-015, 030, 031, 040 and 055).

EPA reviewed the numerous amendments to the Oregon SIP and found that the revisions met the criteria in accordance with section 110 of the Clean Air Act and 40 CFR part 51. On November 3, 1988 (53 FR 44487) EPA provided a 30-day public comment period on its proposed approval of the ODEQ request. No comments were received.

II. Summary of Action

EPA is today approving numerous revisions to the Oregon SIP as submitted by ODEQ on May 30, 1986 and July 11, 1986.

Specifically EPA is approving revisions to the following sections of Volume 2 [The Federal Clean Air Act

Implementation Plan (and Other State Regulations)] and section 3 [Statewide Regulatory Provisions—Chapter 340]:

- Section 1 Introduction
- Section 2 General Administration
- Section 3 Statewide Regulatory Provisions,
 - Subsection 3.1 Oregon Administrative Rule—Chapter 340
 - OAR 340-14-005 to 050 Procedures for Issuance of Permits
 - OAR 340-20-046 Records, Maintaining and Reporting
 - OAR 340-20-047 "State of Oregon Clean Air Act, Implementation Plan"
 - OAR 340-30-015(2) Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area
 - OAR 340-31-105 PSD Definitions
- Section 4 Control Strategies for Nonattainment Areas
- Section 5 Control Strategies for Attainment and Nonattainment Areas
- Section 6 Ambient Air Quality Monitoring Program
- Section 8 Public Involvement
- Section 9 Plan Revisions and Reporting

EPA is approving the deletion of the following provisions of section 3.1:

- OAR 340-11-005 to 035 Rules of Practice and Procedure
- OAR 340-13-005 to 035 Wilderness, Recreational, and Scenic Area Rules
- OAR 340-20-100 to 135 Rules for Indirect Sources
- OAR 340-24-005 to 040 Motor Vehicle Rules
- OAR 340-24-311 and 337 Motor Vehicle Noise Rules
- OAR 340-25-055 to 080 Reduction of Animal Matter
- OAR 340-28-001 to 090 Specific Air Pollution Control Rules for Clackamas, Columbia, Multnomah, and Washington Counties
- OAR 340-31-045 Particle Fallout
- OAR 340-31-050 Calcium Oxide (Lime Dust)

In addition to the May 30, 1986, submittal, EPA is also approving revisions to the Specific Air Pollution Control Rules for Medford-Ashland Air Quality Maintenance Area" (OAR 340-30-015, 030, 031, 040 and 055) which were submitted to EPA on July 11, 1986.

There are two revisions which were submitted to EPA on May 30, 1986, that will not be processed in this rulemaking action. Instead EPA will prepare separate Federal Register Notices of Rulemaking proposing action on OAR 340-25-150 to 205 Kraft Pulp Mills and OAR 340-25-305 to 325 Board Products Industries.

On February 24, 1986, ODEQ submitted extensive revisions to the ozone control strategy for the Portland-Vancouver Air Quality Maintenance Area (section 4.3) and certain implementing rules (OAR 340-22-100 to 220, OAR 340-20-155(i) Table 1, and

OAR 340-20-241). These revisions supersede the respective sections in the May 30, 1986 submittal (even though they predate that submittal). EPA will not be acting on these provisions in this rulemaking, but instead, will prepare a separate Federal Register Notice of Rulemaking if warranted pursuant to the Clean Air Act Amendments of 1990.

On August 5, 1985, and December 5, 1986, ODEQ submitted extensive revisions to title 14, 34, and 38 of Lane Regional Air Pollution Authority's (LRAPA) rules. Since portions of these submittals supersede parts of the May 30, 1986 submittal, EPA will take action on all of these requested revisions to the LRAPA rules in a separate Federal Register Notice of Rulemaking.

III. Administrative Review

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years and has been extended.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

The Agency has reviewed this request for revision of the federally-approved state implementation plan for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 1991. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See 42 U.S.C. 7607(b)(2).)

Under 5 U.S.C. 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air Pollution control, Carbon monoxide, Hydrocarbons, Incorporation By Reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and Recordkeeping requirements, Sulfur oxides.

Dated May 29, 1991.

Dana A. Rasmussen,
Regional Administrator.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Title 40, chapter I of part 52 of the Code of Federal Regulations is amended as follows:

PART 52--[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(87) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(87) On May 30, 1986, the Director of the Department of Environmental Quality submitted revisions to Volume 2 "The Federal Clean Air Act Implementation Plan (and Other State Regulations)" and on July 11, 1986 a revised Section 3 "Statewide Regulatory Provisions" 'Subsection 3.1 Oregon Administrative Rule—Chapter 340' (OAR 340-30-015, 030, 031, 040, and 055) as revisions to the Oregon State Implementation Plan.

(i) Incorporation By Reference.

(A) May 30, 1986 letter from the Director of the Department of Environmental Quality to EPA Region 10 submitting amendments to the Oregon state implementation plan.

(B) July 11, 1986 letter from the Director of the Department of Environmental Quality to EPA Region 10 submitting amendments to the Oregon state implementation plan.

(C) Volume 2 "The Federal Clean Air Act Implementation Plan (and Other State Regulations)" Section 1 (Introduction); Section 2 (General

Administration); Section 3 (Statewide Regulatory Provisions) Introduction; Section 4 (Control Strategies for Nonattainment Areas) Introduction; Section 5 (Control Strategies for Attainment and Nonattainment Areas) Introduction and Section 5.2 (Prevention of Significant Deterioration); Section 6 (Ambient Air Quality Monitoring Program); Section 8 (Public Involvement); and Section 9 (Plan Revisions and Reporting), dated January 1986, as adopted by the Environmental Quality Commission on April 25, 1986.

(D) Volume 2 "The Federal Clean Air Act Implementation Plan (and Other State Regulations)," Section 3 (Statewide Regulatory Provisions), Subsection 3.1 Oregon Administrative Rule—Chapter 340 (OAR 340-14-005 to 050 [Procedures for Issuance, Denial, Modification, and Revocation of Permits] dated 10-1-89, OAR 340-20-046 [Records; Maintaining and Reporting] effective 10-1-72, OAR 340-20-047 [State of Oregon Clean Air Act Implementation Plan] effective 9-30-85, OAR 340-30-015 [Wood Waste Boilers] effective 10-29-80, and OAR 340-31-105 [Definitions] effective 9-8-81.

(E) Volume 2 "The Federal Clean Air Act Implementation Plan (and Other State Regulations)," Section 3 "(Statewide Regulatory Provisions)", Subsection 3.1 Oregon Administrative Rule—Chapter 340, Division 30 (Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area), Section 015 (Wood Waste Boilers); Section 030 (Wood Particle Dryers at Particleboard Plants); Section 031 (Hardboard Manufacturing Plants); Section 040 (Charcoal Processing Plants); and Section 055 (Source Testing) as adopted by the Environmental Quality Commission on June 13, 1986.

3. Section 52.1977 is added as follows:

§ 52.1977 Content of approved State submitted Implementation Plan.

The following sections of the State air quality control plan (as amended on the dates indicated) have been approved and are part of the current State Implementation Plan.

State of Oregon Air Quality Control Program
Volume 2—The Federal Clean Air Act Implementation Plan (and Other State Regulations)

Section

1. Introduction (1-86)
2. General Administration (1-86)
 - 2.1 Agency Organization (1-86)
 - 2.2 Legal Authority (1-86)
 - 2.3 Resources (1-86)
 - 2.4 Intergovernmental Cooperation and Consultation (1-86)

- 2.5 Miscellaneous Provisions (1-86)
3. Statewide Regulatory Provisions
- 3.1 Oregon Administrative Rules—Chapter 340 (1-86)
- Division 12—Civil Penalties
- Sec. 030 Definitions (11-8-84)
- Sec. 035 Consolidation of Proceedings (9-25-74)
- Sec. 040 Notice of Violation
- Sec. 045 Mitigating and Aggravating Factors (11-8-88)
- Sec. 050 Air Quality Schedule of Civil Penalties (11-8-84)
- Sec. 070 Written Notice of Assessment of Civil Penalty; When Penalty Payable (11-8-84)
- Sec. 075 Compromise or Settlement of Civil Penalty by Director (11-8-84)
- Division 14—Procedures for Issuance, Denial, Modification, and Revocation of Permits (4-15-72)
- Sec. 005 Purpose (4-15-72)
- Sec. 007 Exception (10-15-73)
- Sec. 010 Definitions (4-15-72)
- Sec. 015 Type, Duration, and Termination of Permits (12-16-76)
- Sec. 020 Application for a Permit (4-15-72)
- Sec. 025 Issuance of a Permit (4-15-72)
- Sec. 030 Renewal of a Permit (4-15-72)
- Sec. 035 Denial of a Permit (4-15-72)
- Sec. 040 Modification of a Permit (4-15-72)
- Sec. 045 Suspension or Revocation of a Permit (4-15-72)
- Sec. 050 Special Permits (4-15-72)
- Division 20—General
- Sec. 001 Highest and Best Practicable Treatment and Control Required (3-1-72)
- Sec. 003 Exceptions (3-1-72)
- Registration
- Sec. 005 Registration in General (9-1-70)
- Sec. 010 Registration Requirements (9-1-70)
- Sec. 015 Re-registration (9-1-70)
- Notice of Construction and Approval of Plans
- Sec. 020 Requirement (9-1-70)
- Sec. 025 Scope (3-1-72)
- Sec. 030 Procedure (9-1-72)
- Sec. 032 Compliance Schedules (3-1-72)
- Sampling, Testing, and Measurement of Air Contaminant Emissions
- Sec. 035 Program (9-1-70)
- Sec. 037 Stack Heights & Dispersion Techniques (4-25-86)
- Sec. 040 Methods (9-11-70)
- Sec. 045 Department Testing (9-1-70)
- Sec. 046 Records; Maintaining and Reporting (10-1-72)
- Sec. 047 State of Oregon Clean Air Act, Implementation Plan (9-30-85)
- Air Contaminant Discharge Permits
- Sec. 140 Purpose (1-8-86)
- Sec. 145 Definitions (1-8-76)
- Sec. 150 Notice Policy (1-8-76)
- Sec. 155 Permit Required (5-31-83)
- Sec. 160 Multiple-Source Permit (1-8-76)
- Sec. 165 Fees (5-31-83, 3-14-86)
- Sec. 170 Procedures For Obtaining Permits (1-11-74)
- Sec. 175 Other Requirements (6-29-79)
- Sec. 180 Registration Exemption (6-29-79)
- Sec. 185 Permit Program For Regional Air Pollution Authority (1-8-76)
- Conflict of Interest
- Sec. 200 Purpose (10-13-78)
- Sec. 205 Definitions (10-13-78)
- Sec. 210 Public Interest Representation (10-13-78)
- Sec. 215 Disclosure of Potential Conflicts of Interest (10-13-78)
- New Source Review
- Sec. 220 Applicability (9-8-81)
- Sec. 225 Definitions (10-16-84)
- Sec. 230 Procedural Requirements (10-16-84)
- Sec. 235 Review of New Sources and Modifications for Compliance With Regulations (9-8-81)
- Sec. 240 Requirements for Sources in Nonattainment Areas (4-18-83)
- Sec. 245 Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration) (10-16-85)
- Sec. 250 Exemptions (9-8-81)
- Sec. 255 Baseline for Determining Credit for Offsets (9-8-81)
- Sec. 260 Requirements for Net Air Quality Benefit (4-18-83)
- Sec. 265 Emission Reduction Credit Banking (4-18-83)
- Sec. 270 Fugitive and Secondary Emissions (9-8-81)
- Sec. 275 Repealed
- Sec. 276 Visibility Impact (10-16-85)
- Plant Site Emission Limits
- Sec. 300 Policy (9-8-81)
- Sec. 301 Requirement for Plant Site Emission Limits (9-8-81)
- Sec. 305 Definitions (9-8-81)
- Sec. 310 Criteria for Establishing Plant Site Emission Limits (9-8-81)
- Sec. 315 Alternative Emission Controls (9-8-81)
- Sec. 320 Temporary PSD Increment Allocation (9-8-81)
- Stack Heights and Dispersion Techniques
- Sec. 340 Definitions (4-18-83)
- Sec. 345 Limitations (4-18-83)
- Division 21—General Emission Standards for Particulate Matter
- Sec. 005 Definitions (1-16-84)
- Sec. 010 Special Control Areas (7-11-70)
- Sec. 015 Visible Air Contaminant Limitations (7-11-70)
- Sec. 020 Fuel Burning Equipment Limitations (9-1-82)
- Sec. 025 Refuse Burning Equipment Limitations (1-16-84)
- Sec. 027 Municipal Waste Incinerator in Coastal Areas (1-16-84)
- Sec. 030 Particulate Emission Limitations for Sources Other Than Fuel Burning and Refuse Burning Equipment (3-1-72)
- Particulate Emissions From Process Equipment
- Sec. 035 Applicability (3-1-72)
- Sec. 040 Emission Standard (3-1-72)
- Sec. 045 Determination of Process Weight (3-1-72)
- Fugitive Emissions
- Sec. 050 Definitions (3-1-72)
- Sec. 055 Applicability (3-1-72)
- Sec. 060 Requirements (3-1-72)
- Upset Conditions
- Sec. 065 Introduction (3-1-72)
- Sec. 070 Scheduled Maintenance (3-1-72)
- Sec. 075 Malfunction of Equipment (3-1-72)
- Woodstove Certification
- Sec. 100 Definitions (6-26-84)
- Sec. 105 Requirements for Sale of New Woodstoves in Oregon (6-26-84)
- Sec. 110 Exemptions (6-26-84)
- Sec. 115 Emissions Performance Standards and Certification (6-26-84)
- Sec. 120 Testing Criteria and Procedures (6-26-84)
- Sec. 125 General Certification Procedures (6-26-84)
- Sec. 130 Changes in Woodstove Design (6-26-84)
- Sec. 135 Labelling Requirements (6-26-84)
- Sec. 140 Permanent Label (6-26-84)
- Sec. 145 Contents of Permanent Label (6-26-84)
- Sec. 150 Removable Label (6-26-84)
- Sec. 155 Label Approval (6-26-84)
- Sec. 160 Laboratory Accreditation Requirements (6-26-84)
- Sec. 165 Accreditation Criteria (6-26-84)
- Sec. 170 Application for Laboratory Accreditation (6-26-84)
- Sec. 175 On-Site Laboratory Inspection and Stove Testing Proficiency Demonstration (6-26-84)
- Sec. 180 Accreditation Application Deficiency, Notification and Resolution (6-26-84)
- Sec. 185 Final Department Review and Certificate of Accreditation (6-26-84)
- Sec. 190 Civil Penalties, Revocation, and Appeals (6-26-84)
- Division 22—General Gaseous Emissions, Sulfur Content of Fuels
- Sec. 005 Definitions (3-1-72)
- Sec. 010 Residual Fuel Oils (8-25-77)
- Sec. 015 Distillate Fuel Oils (3-1-72)
- Sec. 020 Coal (1-29-82)
- Sec. 025 Exemptions (3-1-72)
- General Emission Standards for Sulfur Dioxide
- Sec. 050 Definitions (3-1-72)
- Sec. 055 Fuel Burning Equipment (3-1-72)
- Sec. 300 Reid Vapor Pressure for Gasoline, except that in Paragraph (6) only sampling procedures and test methods specified in 40 CFR Part 80 are approved (6-15-89)
- Division 23—Rules for Open Burning
- Sec. 022 How to Use These Open Burning Rules (9-8-81)
- Sec. 025 Policy (9-8-81)
- Sec. 030 Definitions (6-16-84)
- Sec. 035 Exemptions, Statewide (6-16-84)
- Sec. 040 General Requirements Statewide (9-8-81)
- Sec. 042 General Prohibitions Statewide (6-16-84)
- Sec. 043 Open Burning Schedule (6-16-84)
- Sec. 045 County Listing of Specific Open Burning Rules (9-8-81)

Open Burning Prohibitions

- Sec. 055 Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties (9-8-81)
- Sec. 060 Benton, Linn, Marion, Polk, and Yamhill Counties (6-16-84)
- Sec. 065 Clackamas County (6-16-84)
- Sec. 070 Multnomah County (6-16-84)
- Sec. 075 Washington County (6-16-84)
- Sec. 080 Columbia County (9-8-81)
- Sec. 085 Lane County (6-16-84)
- Sec. 090 Coos, Douglas, Jackson and Josephine Counties (9-8-81)
- Sec. 100 Letter Permits (6-16-84)
- Sec. 105 Forced Air Pit Incinerators (9-8-81)
- Sec. 110 Records and Reports (9-8-81)
- Sec. 115 Open Burning Control Areas (6-16-84)

Division 24—Visible Emissions Motor Vehicle Emission Control Inspection Test Criteria, Methods and Standards

- Sec. 300 Scope (4-1-85)
- Sec. 301 Boundary Designations (9-9-88)
- Sec. 305 Definitions (4-1-85)
- Sec. 306 Publicly Owned and Permanent Fleet Vehicle Testing Requirements (12-31-83)
- Sec. 307 Motor Vehicle Inspection Program Fee Schedule (8-1-81)
- Sec. 310 Light Duty Motor Vehicle Emission Control Test Method (9-9-88)
- Sec. 315 Heavy Duty Gasoline Motor Vehicle Emission Control Test Method (12-31-83)
- Sec. 320 Light Duty Motor Vehicle Emission Control Test Criteria (9-9-88)
- Sec. 325 Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria (9-9-88)
- Sec. 330 Light Duty Motor Vehicle Emission Control Outpoints or Standards (8-1-81) Subpart (3) (9-12-86)
- Sec. 335 Heavy Duty Gasoline Motor Vehicle Emission Control Emission Standards (9-12-86)
- Sec. 340 Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Vehicle Pollution Control Systems and Execute Certificates (12-31-83)
- Sec. 350 Gas Analytical System Licensing Criteria (9-9-88)

Division 25—Specific Industrial Standards Construction and Operation of Wigwam Waste Burners

- Sec. 005 Definitions (3-1-72)
 - Sec. 010 Statement of Policy (3-1-72)
 - Sec. 015 Authorization to Operate a Wigwam Burner (3-1-72)
 - Sec. 020 Repealed
 - Sec. 025 Monitoring and Reporting (3-1-72)
- Hot Mix Asphalt Plants
- Sec. 105 Definitions (3-1-73)
 - Sec. 110 Control Facilities Required (3-1-73)
 - Sec. 115 Other Established Air Quality Limitations (3-1-73)
 - Sec. 120 Portable Hot Mix Asphalt Plants (4-18-83)
 - Sec. 125 Ancillary Sources of Emission—Housekeeping of Plant Facilities (3-1-73)

Primary Aluminum Plants

- Sec. 255 Statement of Purpose (6-18-82)
 - Sec. 260 Definitions (6-18-82)
 - Sec. 265 Emission Standards (6-18-82)
 - Sec. 270 Special Problem Areas (12-25-73)
 - Sec. 275 Highest and Best Practical Treatment and Control Requirement (12-25-73)
 - Sec. 280 Monitoring (6-18-82)
 - Sec. 285 Reporting (6-18-82)
- Regulations for Sulfite Pulp Mills
- Sec. 350 Definitions (5-23-80)
 - Sec. 355 Statement of Purpose (5-23-80)
 - Sec. 360 Minimum Emission Standards (5-23-80)
 - Sec. 365 Repealed
 - Sec. 370 Monitoring and Reporting (5-23-80)
 - Sec. 375 Repealed
 - Sec. 380 Exceptions (5-23-80)

Laterite Ore Production of Ferronickel

- Sec. 405 Statement of Purpose (3-1-72)
- Sec. 410 Definitions (3-1-72)
- Sec. 415 Emission Standards (3-1-72)
- Sec. 420 Highest and Best Practicable Treatment and Control Required (3-1-72)
- Sec. 425 Compliance Schedule (3-1-72)
- Sec. 430 Monitoring and Reporting (3-1-72)

Division 26—Rules for Open Field Burning (Willamette Valley)

- Sec. 001 Introduction (7-3-84)
- Sec. 003 Policy (3-7-84)
- Sec. 005 Definitions (3-7-84)
- Sec. 010 General Requirement (3-7-84)
- Sec. 011 Repealed
- Sec. 012 Registration, Permits, Fees, Records (3-7-84)
- Sec. 013 Acreage Limitations, Allocations (3-7-84)
- Sec. 015 Daily Burning Authorization Criteria (3-7-84)
- Sec. 020 Repealed
- Sec. 025 Civil Penalties (3-7-84)
- Sec. 030 Repealed
- Sec. 031 Burning by Public Agencies (Training Fires) (3-7-84)
- Sec. 035 Experimental Burning (3-7-84)
- Sec. 040 Emergency Burning, Cessation (3-7-84)
- Sec. 045 Approved Alternative Methods of Burning (Propane Flaming) (3-7-84)

Division 27—Air Pollution Emergencies

- Sec. 005 Introduction (10-24-83)
- Sec. 010 Episode State Criteria for Air Pollution Emergencies (10-24-83)
- Sec. 012 Special Conditions (10-24-83)
- Sec. 015 Source Emission Reduction Plans (10-24-83)
- Sec. 020 Repealed
- Sec. 025 Regional Air Pollution Authorities (10-24-83)

Division 30—Specific Air Pollution Control Rules for the Medford-Ashland Air Quality Maintenance Area

- Sec. 005 Purposes and Application (4-7-78)
- Sec. 010 Definitions (5-6-81)
- Sec. 015 Wood Waste Boilers (10-29-80, 6-13-86)
- Sec. 020 Veneer Dryer Emission Limitations (1-28-80)
- Sec. 025 Air, Conveying Systems (4-7-78)
- Sec. 030 Wood Particle Dryers at Particleboard Plants (5-6-81)

Sec. 031 Hardwood Manufacturing Plants (5-6-81)

- Sec. 035 Wigwam Waste Burners (10-29-80)
- Sec. 040 Charcoal Producing Plants (4-7-78)
- Sec. 043 Control of Fugitive Emissions (4-18-83)
- Sec. 044 Requirement for Operation and Maintenance Plans (4-18-83)
- Sec. 045 Compliance Schedules (4-18-83)
- Sec. 050 Continuous Monitoring (4-7-83)
- Sec. 055 Source Testing (4-7-78)
- Sec. 060 Repealed
- Sec. 065 New Sources (4-7-78)
- Sec. 070 Open Burning (4-7-78)

Division 31—Ambient Air Quality Standards

- Sec. 005 Definitions (3-1-72)
- Sec. 010 Purpose and Scope of Ambient Air Quality Standards (3-1-72)
- Sec. 015 Suspended Particulate Matter (3-1-72)
- Sec. 020 Sulfur Dioxide (3-12-72)
- Sec. 025 Carbon Monoxide (3-1-72)
- Sec. 030 Ozone (1-29-82)
- Sec. 035 Hydrocarbons (3-1-72)
- Sec. 040 Nitrogen Dioxide (3-1-72)
- Sec. 045 Repealed
- Sec. 050 Repealed
- Sec. 055 Ambient Air Quality Standard for Lead (1-21-83)

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- 33-065 Charcoal Producing Plants (5-15-79)
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 - 4.11 Grants Pass Nonattainment-Carbon Monoxide (10-84)
- 5. Control Strategies for Attainment and Nonattainment Areas (1-86)
 - 5.1 Statewide Control Strategies for Lead (1-83)
 - 5.2 Visibility Protection Plan (10-24-86)
 - 5.3 Prevention of Significant Deterioration (1-86)
- 6. Ambient Air Quality Monitoring Program
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- 9. Plan Revisions and Reporting (1-86)
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- Directive 1-4-1-601 Operational Guidance for the Oregon Smoke Management Program (12-86)

[FR Doc. 91-17951 Filed 7-29-91; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271**[FRL-3978-2]****Indiana: Final Authorization of Revisions to State Hazardous Waste Management Program****AGENCY:** Environmental Protection Agency.**ACTION:** Immediate final rule.

SUMMARY: Indiana has applied for final authorization of revisions to its authorized hazardous waste program under the Resource Conservation and Recovery Act of 1976 as amended (hereinafter "RCRA" or the "Act"). The Environmental Protection Agency (EPA) has reviewed Indiana's application and has reached a decision, subject to public review and comment, that Indiana's hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Indiana to operate its revised program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA").

DATES: *Effective date:* Final authorization of Indiana's application shall be effective September 30, 1991 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule.

All comments on Indiana's program revision application must be received by 4:30 p.m. central standard time on August 14, 1991.

ADDRESSES: Copies of Indiana's program revision application are available for inspection and copying, from 8:30 a.m. to 4:30 p.m., at the following addresses: Indiana Department of Environmental Management, Hazardous Waste Management Branch, 105 South Meridian Street, Indianapolis, Indiana 46206, Contact: Michael Dalton, (317) 232-8884; U.S. EPA Headquarters Library, PM 211A, 401 M Street SW., Washington, DC 20460, phone (202) 382-5926; U.S. EPA Region V, Waste Management Division, Office of RCRA, 230 South Dearborn Street, Chicago, Illinois 60604, Contact: George Woods, (312) 888-6134. Written comments on Indiana's application should be sent to George Woods, at the address listed below.

FOR FURTHER INFORMATION CONTACT: George Woods, Indiana Regulatory

Specialist, U.S. Environmental Protection Agency, Region V, Waste Management Division, Office of RCRA, Program Management Branch, Regulatory Development Section, 5HR-JCK-13, 230 South Dearborn, Chicago, Illinois 60604, (312) 886-6134 (FTS 886-6134).

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is at least equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. For further explanation see section C of this notice.

In accordance with 40 CFR 271.21(a), revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260-268 and 270.

B. Indiana

Indiana initially received final authorization for its base RCRA program effective January 31, 1986 (51 FR 3953-3954, January 31, 1986). Indiana received authorization for revisions to its program effective December 31, 1986 (51 FR 39752-39754, October 31, 1986) January 19, 1988 (53 FR 128-129, January 5, 1988), and September 11, 1989 (54 FR 29557-29559, July 13, 1989). On November 1, 1988, Indiana submitted a program revision application for additional program approvals covering both the non-HSWA and HSWA Cluster I Portions of the Subtitle C Tank Standards, and for provisions of Non-HSWA Cluster III. On November 19, 1990, the Indiana Attorney General certified that, in his opinion, the laws of the State of Indiana provide adequate authority to carry out this revised program, and that the specific authorities provided are contained in statutes or regulations lawfully adopted and in effect as of November 19, 1990.

EPA has reviewed Indiana's application and has made an immediate final decision, subject to public review and comment, that Indiana's hazardous waste management program revisions are equivalent to the Federal program revisions listed below and satisfy all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization to Indiana for its additional program revisions.

On September 30, 1991 (unless EPA publishes a prior Federal Register action withdrawing this immediate final rule), Indiana will be authorized to carry out, in lieu of the Federal program, those provisions of the State's regulations which were modified and originally codified at title 320, article 4, rule 1 (320 IAC 4.1) of the Indiana Administrative Code, effective June 19, 1988 (see Indiana Register, Volume 11, Number 10, pages 3153-3199, July 1, 1988). Because Indiana's hazardous waste management rules found at 320 IAC 4.1 were repealed and simultaneously recodified at title 329, article 3 (329 IAC 3) of the Indiana Administrative Code, effective July 1, 1988 (see Indiana Register, Volume 11, Number 10, pages 3199 and 3210 through 3519, July 1, 1988), the modified rules are designated herein under the recodified citations and have the 329 IAC 3 prefix. These State rules are being recognized as analogous to the following provisions of the Federal Program:

Federal requirement	Analogous state authority
<ul style="list-style-type: none"> Standards for Hazardous Waste Storage and Treatment Tank Systems, July 14, 1986 (51 FR 25422, as amended August 15, 1986 (51 FR 29430). (Note: These provisions cover both HSWA and non-HSWA portions of the Subtitle C Tank Standards.) Radioactive Waste, July 3, 1986 (51 FR 24504). 	<p>Indiana Administrative Code, Title 329, Article 3, Rule 1-7; 3-4(a)(8); 9-5(a)(1), 9-5(d) (2) and (3); 16-4(b)(6); 16-6(b)(4); 19-4(b) (3) and (6); 21-1(2)(C); 22-1(b); 24-1(a) and (b); 24-2(a) (b) (c) and (d); 24-3(a) (b) (c) (d) (e) (f) and (g); 24-4(a) (b) (c) (d) (e) and (f); 24-4(f)(1)-(4); 24-4(g) (h) and (i); 24-5(a) (b) and (c); 24-6(a) (b) and (c); 24-7(1)-(6); 24-8(a) (b) and (c); 24-9(a) and (b); 24-10(a) and (b); 24-11(1) and (2); 24-12(a) (b) (c) (d) (e) and (f); 34-5(b) (5) and (13); 34-7(1)-(10); 38-3(e); 41-6(b) (4); 44-4(b)(6); 46-1(b)(3); 47-1(b) (3); 49-1(a) and (b); 49-2(a) (b) (c) and (d); 49-3(a) (b) (c) (d) (e) (f) and (g); 49-4(a) (b) (c) (d) (e) and (f); 49-4(f)(1)-(4); 49-4(g) (3) and (4); 49-4(h) and (i); 49-5(a) (b) and (c); 49-6(a) (b) (c) and (d); 49-7(1)-(6); 49-8(a) (b) and (c); 49-9(1) and (2); and 49-10(a) and (b). (Effective July 1, 1988.)</p> <p>IC 13-7-1-22. (Effective July 1, 1988.)</p>

Federal requirement	Analogous state authority
<ul style="list-style-type: none"> Liability Coverage—Corporate Guarantee, July 11, 1986 (51 FR 25350). Listing of Spent Pickle Liquor, 40 CFR 261.32, as amended May 28, 1986, and September 22, 1986 (51 FR 19320 and 51 FR 33612). Interim Status Standards for Owners/Operators of Hazardous Waste TSD Facilities, March 19, 1987 (52 FR 8708). Development of Corrective Action Programs After Permitting Hazardous Waste Land Disposal Facilities, June 22, 1987 (52 FR 23447) as amended September 9, 1987 (52 FR 33936). 	<p>Indiana Administrative Code, Title 329, Article 3, Rule 22-24(a) (2) and (3); 22-24(b) (3); 22-24(g) (1) (A) and (B); 22-24(g) (2); 47-8(a) (3); 47-8(b) (3); 47-8(g) (1) (A) and (B); 47-8(g) (2); 47-8-10(g); and 47-8-10(h) (2). (Effective July 1, 1988.)</p> <p>Indiana Administrative Code, Title 329, Article 3, Rule 6-3. (Effective July 1, 1988.)</p> <p>Indiana Administrative Code, Title 329, Article 3, Rule 25-7(a) (1) and (2); 25-7(a)(2) (A) and (B); 25-7(a)(2) (C) (i) (ii) (iii) (iv) and (v); 25-7(b) (b) (1) (2) and (3). (Effective July 1, 1988.)</p> <p>Indiana Administrative Code, Title 329, Article 3, Rule 34-5(c)(7); and 34-5(c) (8)(E). (Effective July 1, 1988.)</p>

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of Indiana's authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for other provisions on January 31, 1986, on January 19, 1988, and on September 11, 1989, the effective dates of Indiana's final authorizations for the RCRA base program and for two approved revisions to Indiana's authorized program.

Indiana is not authorized to operate the Federal Program on Indian lands. This authority shall remain with EPA unless provided otherwise in a future statute or regulation.

C. Effect of HSWA on Indiana's Authorization

Prior to the Hazardous and Solid Waste Amendments to RCRA, a State with final authorization would have administered its hazardous waste program instead of, or entirely in lieu of, the Federal program. Except for

enforcement provisions not applicable here, EPA no longer directly applied the Federal requirements in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent, Federal requirements were promulgated or enacted, the State was obligated to obtain equivalent authority within specified time frames. New Federal requirements usually did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new HSWA requirements and prohibitions take effect in authorized States at the same time as they take effect in nonauthorized States. EPA directly carries out those requirements and imposes those prohibitions in authorized and non-authorized States, including the issuance of full or partial HSWA permits, until EPA grants the State authorization to do so. States must still, in accordance with the deadlines specified in paragraphs 40 CFR 271.21(e)(2) (ii) through (v), adopt HSWA-related provisions as State law in order to retain final authorization. In the interim, the HSWA provisions apply in authorized States.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Indiana. To the extent HSWA does not affect the authorized State program, the State program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce those HSWA requirements in Indiana until the State is authorized for them. Among other things, this will entail the issuance of Federal RCRA permits for those HSWA requirements for which the State is not yet authorized, in addition to any State permits.

Indiana is being authorized to implement only those HSWA requirements addressed in the July 14, 1986, FR notice, as amended August 15, 1986, (51 FR 25422 and 51 FR 29430.) Once EPA authorizes Indiana to carry out further HSWA requirements or prohibitions, the State program in those areas will operate in lieu of the Federal provisions or prohibitions. Until that time, the State may assist EPA's implementation of the HSWA under a Cooperative Agreement. Any effective State requirement that is more stringent or broader in scope than a Federal HSWA provision will continue to remain in effect; thus, regulated handlers must comply with any more stringent State requirements.

EPA has published a *Federal Register* notice that explains in detail the HSWA

and its effect on authorized States. That notice was published at 50 FR 28702-28755, July 15, 1985.

D. Decision

I conclude that Indiana's application for this program revision meets all the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Indiana final authorization to operate its hazardous waste program as revised. Indiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the other aspects of the RCRA program. This responsibility is subject to the limitations of this program revision application and previously approved authorities. Indiana also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

E. Codification in Part 272

EPA codifies authorized RCRA State programs in part 272 of 40 CFR. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. Codification of these revisions to the Indiana program will be published later in a separate *Federal Register* notice.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Indiana's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, (42 U.S.C. 6912(a), 6926, and 6974(b)).

Dated: February 22, 1991.

Valdas V. Adamkus,
Regional Administrator.

Editorial Note: This document was received in the Office of the Federal Register on July 23, 1991.

[FR Doc. 91-17793 Filed 7-29-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 910494-1094]

Western Pacific Crustacean Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; effective date extension of closure of the lobster fishery in the Northwestern Hawaiian Islands.

SUMMARY: The Secretary of Commerce (Secretary) extends an emergency rule now in effect that closes the lobster fishery in the Northwestern Hawaiian Islands (NWHI). An extended closure of the fishery is needed to protect the lobster spawning stock from heavy fishing pressure during the summer peak spawning period. In addition, this extension will allow the Western Pacific Fishery Management Council to complete an amendment to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP) that would establish a seasonal closure, a limited entry plan, and an annual harvest quota, without a lapse in protection to the lobster stock.

EFFECTIVE DATE: The emergency interim regulations published on May 13, 1991, are extended from 0000 hours local time August 13, 1991, to 2400 hours local time November 10, 1991.

ADDRESSES: Copies of the environmental assessment prepared for the emergency rule may be obtained

from, and comments should be addressed to R.V. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (213) 514-6660, (FTS) 795-6660, or Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, Honolulu, Hawaii (808) 523-1368, (FTS) 551-1974.

SUPPLEMENTARY INFORMATION: Under the emergency action authority of section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule (56 FR 21961, May 13, 1991) temporarily amending the FMP and its implementing regulations. The rule, which become effective at 0000 hours local time May 8, 1991, closes the NWHI lobster fishery in response to the

low level of lobster spawning stock biomass, which may be at or near the level at which recruitment failure could occur. The catch per unit of effort (CPUE) of legal lobster from January through April 1991 was 0.63 legal lobsters per trap-haul. This CPUE is the lowest recorded during the period since 1984 when data records become available. The closure is intended to increase the biomass of spawning lobster by prohibiting the harvest of lobsters before the during the summer peak spawning period. Also, it is intended to delay the opening of the fishery while Amendment 7 to the FMP is being prepared. That amendment, if approved, would establish a seasonal closure, a limited entry program, and a process to set an annual harvest quota.

Because the same circumstances still exist in the fishery as when the emergency rule took effect, the

Secretary extends for 90 days the effective dates of the rule under section 305(c)(3)(B) of the Magnuson Act.

The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. The rule was reported to the Director of the Office of Management and Budget with an explanation of why following the procedures of that order was impracticable.

List of Subjects in 50 CFR Part 681

Fisheries, Fishing, Reporting and recordkeeping.

Dated: July 24, 1991.

Samuel W. McKeen,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 91-18004 Filed 7-29-91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 56, No. 146

Tuesday, July 30, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[Docket No. FV-91-272]

Honey Research, Promotion and Consumer Information Order; Order Directing That a Referendum Be Conducted; Determination of Representative Period for Voter Eligibility; and Designation of a Referendum Agent To Conduct the Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Order for referendum.

SUMMARY: This document directs that a referendum be conducted among eligible honey producers and importers to determine: (1) Whether they favor continuance of the Honey Research, Promotion, and Consumer Information Order (Order); and, (2) whether they favor termination of the authority for producers and importers to obtain a refund of assessments.

DATES: For purposes of determining voter eligibility, the representative production period is from January 1, 1990, to December 31, 1990. The referendum will be conducted from August 1 through August 31, 1991.

ADDRESSES: Copies of the text of the aforesaid Order may be examined in the Office of the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96458, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Sheila A. Young, (202) 475-3930, at the above address.

SUPPLEMENTARY INFORMATION: This order directs that a referendum be conducted among honey producers and importers under the Honey Research, Promotion and Consumer Information Order (Order) (7 CFR part 1240), as amended. The Order is effective under the Honey Research, Promotion and

Consumer Information Act (Act), as amended (7 U.S.C. 4601-4612). The referendum is to be conducted among the producers and importers of honey who, during the period January 1, 1990, through December 31, 1990 (which period is hereby determined to be the representative period for purposes of this referendum), were engaged in the production or importation of honey to ascertain whether producers and importers favor continuance of the Order and/or termination of the refund of assessment provisions.

The Act, as amended, provides that the Secretary shall conduct a referendum to determine if honey producers and importers favor, (1) The continuance of the Order, and (2) termination of the authority for honey producers and importers to obtain a refund of assessments.

The Act requires the Secretary to terminate the Order if its continuance is not favored by the requisite majority of voting producers and importers, who produced and imported more than 50 percent of the volume of honey produced and imported by those voting in the referendum.

In the event the termination of the refund provisions is favored by more than 50 percent of the producers and importers voting in the referendum, who produced and imported more than 50 percent of the volume of honey produced and imported by those voting in the referendum, the Order would be amended to reflect that decision.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the ballot materials that will be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581-0093. It has been estimated that it will take an average of 10 minutes for each of the approximately 6,000 producers and importers of honey to participate in the voluntary referendum balloting.

Ms. Sheila A. Young, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, is hereby designated the referendum agent of the Secretary of Agriculture to conduct this referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with the Honey Research,

Promotion and Consumer Information Order," as amended in 1991 (7 CFR 1240.200). Ballots will be mailed to all eligible honey producers and importers of record on or before August 1, 1991.

Honey producers and importers not receiving ballots for the referendum may obtain them from State Agricultural Stabilization and Conservation Service Offices, and some of their county and local offices, and from the referendum agent. Ballots must be postmarked no later than August 31, 1991, to be counted.

List of Subjects in 7 CFR Part 1240

Honey, Agricultural research, Reporting and recordkeeping requirements, Market development, and Consumer information.

Authority: Honey Research, Promotion and Consumer Information Act, as amended, 7 U.S.C. 4601-4612.

Dated: July 19, 1991.

JoAnn R. Smith,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 91-17996 Filed 7-29-91; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1703

Rural Development: Loan and Grant Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR chapter XVII by revising part 1703, subpart B, Rural Economic Development Loan and Grant Program. Policies, requirements and procedures contained in this subpart implement a rural economic development zero interest loan and grant program established by section 313 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (the "RE Act"). The program provides funds to RE Act Borrowers for the purpose of promoting rural economic development and job creation projects. This proposed revision would establish a method of documenting REA's selection process, permit REA to establish the maximum size of the loan or grant, permit

Borrowers to file during the first fourteen days of every month, provide detailed guidance on the form of an application and make other less significant changes in the program. The proposed revisions are based on experiences during the first two years of the program's operation. These revisions would provide the Borrowers with information on REA's selection process, standardize the form of the application, expedite the advance of funds to the rural economic development projects, and improve the overall operation of the program.

DATES: Written comments must be submitted not later than August 29, 1991.

ADDRESSES: Submit written comments to Mark B. Wyatt, Rural Economic Development Coordinator, Rural Electrification Administration, room 4051, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250. The public may inspect all written comments on this proposed rule during regular business hours at the above address (7 CFR 1.27(b)). REA requests an original and three copies of all comments.

FOR FURTHER INFORMATION CONTACT: Mark B. Wyatt, Rural Economic Development Coordinator, Rural Electrification Administration, room 4051, South Building, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, DC 20250, telephone number (202) 382-9552.

SUPPLEMENTARY INFORMATION: This rule is issued in conformance with Executive Order 12291. This action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "non-major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule will not represent a major Federal action that significantly affects the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance (1990)

under No. 10.854, Rural Economic Development Loan and Grant Program.

The reporting requirements contained in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The amendments to the reporting requirements in the existing rule will not become effective until approved by OMB.

Public reporting burden for this collection of information is estimated to average 3.6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, OIRA, room 404-W, Washington, DC 20250 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Background

On February 15, 1989, REA published the final rule, 7 CFR 1709, subpart B, in the *Federal Register* (54 FR 6867) that implemented the Rural Economic Development Loan and Grant Program, also known as the Cushion of Credit Payments Program, established by section 313 of the Rural Electrification Act of 1936, as amended, (the "RE Act"). On September 27, 1990, REA changed the designation of this rule from 7 CFR part 1709 to part 1703 (55 FR 39393). This program provides funds to RE Act Borrowers for the promotion of rural economic development and job creation projects. As of April 1991, REA had selected 146 zero interest loan applications totalling \$12,403,500.

Revision of Regulation

This proposed rule reflects the experience REA has gained during the first two years of the Rural Economic Development Loan and Grant Program. The most significant revision is to select applications based on the total number of points that are received during the evaluation process. When the initial rule for this program was being developed in late 1988 and early 1989, REA spent a considerable amount of time evaluating the desirability of a ranking procedure based on assigning a given number of points for each selection factor. In 1988, REA proposed an evaluation process without a point system and requested comments from the public on this matter

(53 FR 43442). REA received a number of comments in support of a point system from the public. When the final rule was published in 1989, REA did not include a point system (54 FR 6867). The final rule stated that "REA needs the latitude to develop its method of evaluating rural economic development projects as it gains experience" since the nature of this program differed entirely from traditional REA financing programs. Over the course of the last two years REA has gained a considerable amount of experience in evaluating and selecting applications. In addition, the Department of Agriculture's (USDA) Office of Inspector General (OIG) has recommended that REA establish a numerical based methodology to rank all applications to document the selection process. Based on this experience and the OIG recommendation, REA has decided to propose a selection process based on the total number of points assigned to the Borrower's application. The proposed point system will provide a Borrower with specific information on REA's evaluation of its application and how it stands with respect to other applications under consideration.

The proposed rule uses the selection factors in the existing regulation, with a few additions, deletions and modifications. Points would be used to document REA's evaluation of the application for each selection factor. The selection factors and the weights assigned to each factor have been carefully designed to reflect the many different types of projects that will promote economic development and job creation in rural areas. The development of this ranking system is guided by several important concepts. The first concept is the importance of having other funds supplement REA's financing. The proposed rule requires at least a modest portion of the financing to come from other sources. The minimum amount of supplemental financing required would be equal to twenty percent of the REA funds. In addition to this minimum requirement, the number of points assigned to supplemental funds increases to the maximum level of points when supplemental funds are five times the amount of REA funds requested. The maximum number of points was capped at a level equal to 500 percent so large Projects with only a very small percentage of REA funds would not dominate all other applications.

The unemployment rate and per capita personal income levels also are very significant factors in determining the number of points an application

receives. There is a close connection between supplemental financing levels and these two economic indicators. A Project receiving the highest number of points for the two economic indicators but the lowest number for supplemental financing receives approximately the same number of points as the Project scoring highest in supplemental financing but lowest for the economic indicators. This tends to adjust for concerns that those in less economically advantaged areas might not be as able to arrange as much supplemental financing as other areas.

Another concept is the necessity of including several factors that are subjective in nature. Given the nature of this program, no ranking system should select Projects simply on the basis of factors such as the amount of supplemental funds being used to finance the Project or the current economic conditions. First, REA must select Projects that will result in long-term economic development or job creation in rural areas. Second, REA, as any other lending institution, must consider factors that relate to the ultimate recipient and indicate the likelihood of success. An example of such a factor is the ultimate recipient's business plan. While there are subjective elements, this ranking system provides REA an opportunity to document the decision-making process for each selection factor. This documentation, in turn, will be useful to a Borrower to determine how its application has been evaluated with respect to each selection factor.

The concept of rural economic development as a long-term process to increase productivity and the income levels of people in rural areas has been added as a selection factor. The emphasis on Projects that provide long-term benefits is also applied to creating new jobs and improving the marketable skills of people in rural areas. REA intends for these factors to provide overall guidance for the long-term goals of this program.

Additionally, the proposal will establish a preference for Projects that have a meaningful level of REA funds. It is proposed that this level be set at five percent of the total amount of financing required for the Project. While REA has proposed a system that strongly encourages supplementing its funds, at a certain point the benefit of the Agency's funds becomes fairly insignificant and the limited funds would be more effective assisting other projects.

The last concept to be addressed is the need for REA to have the discretion in certain circumstances to decline to select an application regardless of the

number of points it receives. The proposed rule allows REA to (a) limit the number of selections in a particular state during a fiscal year, (b) limit the number of selections made to a particular Borrower during each selection period, (c) allocate funds between the Electric and Telephone program Borrowers, (d) decline to select an application that will not promote economic development and/or job creation in rural areas, (e) decline to select an application to protect the long-term interests of the program, (f) decline to select an application for funds that would merely transfer property or real estate between owners without making any improvements that promote economic development, (g) decline to select an application based on the management and financial situation of the REA Borrower, (h) decline to select an application if there are conflicts with State laws, (i) decline to select an application if the Borrower is in default on its REA loans, (j) select the highest ranking feasibility studies, and, finally (k) select an application receiving fewer points if there are insufficient funds remaining for the higher scoring application but sufficient funds for one receiving fewer points.

The exception for feasibility studies listed above under (j) recognizes that studies will tend to receive fewer points for several of the selection factors. Rather than introduce the complications of a separate ranking for feasibility studies, REA would be able to select the highest ranking studies from within a group of applications. The last exception discussed above under (k) proposes to allow REA to select a small application, for example one requesting \$25,000, if there are insufficient funds to select an application for \$100,000.

One selection factor that is proposed in this revision pertains to the nature of the Project. Whenever a point system is used there must be a methodology established that will result in the selection of Projects that will promote economic development and job creation projects as required in section 313 of the RE Act. This factor will allocate REA funds to Projects generally considered to accomplish this goal such as the creation or expansion of business and the improvement of marketable skills.

For most selection factors, the maximum number of points is basically a measure of its importance to the overall selection. However, for supplemental funds, unemployment rates, per capita personal income levels, jobs created, and the level of cushion of credit payments, the points are based on various levels and percentages.

First, an application with supplemental funds equal to the amount of REA financing being requested (the 100% level) is used as the midpoint. As mentioned previously, the maximum number of points for supplemental funds is capped at a level equal to 500 percent. For the unemployment rate factor, approximately 33 percent of the counties in the United States fall within the category which receives the maximum number of points and approximately 80 percent of the counties fall into the categories which receive more than the minimum number of points. These same distribution percentages were used for the per capita personal income selection factor.

The levels used for job creation per dollar invested reflect levels used in other programs. For example, one U.S. Small Business Administration program (the Section 504 Certified Development Company Program) requires one job per \$15,000 and they have experienced approximately one job per \$10,000. The one job per \$10,000 level would receive the maximum number of points under this proposed rule.

Finally, the levels proposed for the cushion of credit payments factor are designed to encourage Borrowers to support this program. They are tied into the number of points that would be given for supplemental funds invested by the Borrower in the Project. They are not at the same level because an investment in a rural development project even earning an interest rate above five percent has risk whereas a deposit into a cushion of credit account is risk-free. It also recognizes that the existing cushion of credit deposit might be drawn down over a short period of time. Calculating the points for cushion of credit payments as both a percentage of assets and as an absolute dollar amount takes into account the size of the REA borrower. Smaller systems are not at a disadvantage. For this factor, even a modest cushion of credit payment to show support for the program results in a significant number of points.

It is proposed to revise § 1703.22 to permit the Administrator to establish the maximum size of a zero interest loan or grant based on both the amount of funds available for this program and the number and size of applicants. This will allow REA to adjust the maximum size without rulemaking.

It is proposed to revise § 1703.28(a) to permit Borrowers to file an application during the first fourteen days of every month rather than every other month. REA would still maintain a minimum review period after an application has

been received in order to provide time for both State and local governments to review the application and for REA to perform an analysis. This review period would continue to be approximately 40 to 45 days. REA would continue to review all completed applications as a group on a periodic basis.

It is proposed to revise § 1703.20(a)(1) to replace the term "owner" with the term "Significant Stockholder." A Significant Stockholder is defined as a holder of five percent of stock in the REA Borrower. REA has also clarified the provisions on conflicts of interest. The proposed rule provides that a closely held, for-profit REA Borrower would only be able to own or manage a rural economic development Project operated on a not-for-profit basis. This is an area in the program that the USDA's Office of Inspector General felt should be clarified in the rule.

It is proposed to revise § 1703.20(a)(2) to modify restrictions on the use of REA funds for costs incurred on the rural development Project prior to the date the application is received, selected and REA's environmental review completed. It is proposed to add § 1703.20(a)(4) to expressly prohibit "conflict of interest" business transactions. It is proposed to add § 1703.20(a)(5) to prohibit the use of REA funds to refinance indebtedness incurred prior to REA's receipt of the application. REA believes the limited funds available for this program should not be used to lower the interest rate on existing indebtedness. It is proposed to add § 1703.20(a)(6) to prohibit the use of REA funds for any part of the Borrower's utility operations. This section also defines the maximum amount of "reasonable loan servicing charges" to be, on average, equal to one percent per year of the outstanding principal on the zero interest loan. In addition to loan servicing fees, expenses associated with a letter of credit used to guarantee an REA zero interest loan as proposed in § 1703.23(d) may be passed on to the ultimate recipient. Furthermore, § 1703.20(e) currently requires a Borrower to use a separate account for any deposits of zero interest loan funds prior to disbursing them unless they will be disbursed within one month.

A considerable number of new laws requiring certifications, assurances, disclosures and pledges for any application for Federal assistance have been enacted over the last several years. There are requirements in these laws that pertain to debarment and suspension, acquisition of real property, disclosure of lobbying activities and establishment of a drug-free workplace

program. It is proposed to add these requirements to § 1703.28(b) (3) and (4).

In response to feedback from REA Borrowers, it is proposed to revise the section on the form of the application, § 1703.28(b), to provide detailed guidance on the information the Borrower needs to submit. This proposed section would establish a standard format for Borrowers to follow which should make applications easier to prepare and would also permit REA to analyze the application more expeditiously. It is proposed to revise the section by rearranging information currently requested into two sections that discuss the selection factors and describe the proposed Project. In addition, REA is proposing to revise the rule to request general environmental information with the application rather than after the Project has been selected. Based on experience gained this past year, REA believes it can shorten the time between the selection of an application and completion of REA's environmental review if the application includes general environmental information that the Borrower can readily provide. This information will assist REA to determine whether an environmental assessment or statement is required. In addition, REA will have the information necessary to evaluate the environmental impact of a proposed Project prior to considering it for selection.

As previously discussed, it is proposed to revise section 1703.22 to increase the maximum amount of a loan or grant above the \$100,000 level. In order to analyze these larger rural economic development Projects, it is proposed to require a more comprehensive proposal from a Borrower that requests more than \$100,000 in funds or more than \$100,000 for a Project. (see § 1703.28(b)(6)(x)).

REA is proposing to revise § 1703.14, "Eligibility," by adding the provision that a zero interest loan or grant will not be approved for an REA Borrower when the Administrator has determined that financial assistance should not be provided to the Borrower under any section of the RE Act.

It is proposed to revise § 1703.11, "Policy," to define the long-term goal of rural economic development and job creation under this program as a sustainable increase in the productivity of economic resources in rural areas, thereby leading to an increase in income levels for the rural citizens. In addition, it is proposed to add a provision encouraging Borrowers to promote Projects that will benefit "rural areas"

as defined in the RE Act (populations of 1,500 or less).

REA proposes to revise § 1703.16(c), "Purposes of zero interest loans and grants," to state that zero interest loans and grants under this program will not be provided for electric and telephone purposes. This will state explicitly what was implicit in the previous regulation. In addition to RE Act electric and telephone purposes, it is proposed to prohibit the use of funds for non-RE Act electric and telephone purposes such as a windmill producing electricity that is not part of a system providing central station service, a co-generator producing electricity or a reseller of telephone service. REA has electric and telephone programs designed to assist in providing electric and telephone service in rural areas and believes they are the proper source of any RE Act financing for those purposes. In addition, REA will give a preference under this program to applications for Projects that are not funded through REA Borrowers under other Federal programs.

REA proposes a new section, 1703.21, "Owner's equity in the Project" which states that the Administrator may determine that the owner of the rural development Project should invest equity capital in the Project. This proposed section is designed to improve the long-term success of ventures, such as state-up businesses, where the proposed Project would be essentially financed entirely with debt. REA has emphasized that one of the important aspects of supplementing its funds with other sources, such as private banks, would be to encourage sound financial arrangements for the rural development Projects. In most cases a bank, or another source of funds, providing capital for the Project will require adequate equity. There might be situations, however, where it may be necessary for the Administrator to condition REA financing on equity considerations. REA recognizes the situation of some fledgling entrepreneurs but also recognizes the importance of owner's equity in determining the ultimate success of the Project.

It is proposed to revise § 1703.23(c) to require an REA Borrower to repay its REA zero interest loan if the ultimate recipient of these funds repays its loan to the Borrower, unless the Administrator has approved otherwise. Additionally, REA proposes to add a new § 1703.23(d) to address the use of a letter of credit to guarantee an REA zero interest loan. This new section provides the Administrator the discretion to offer a letter of credit as an option to a

Borrower in a situation where state laws, orders or rulings would place the risk that the ultimate recipient might not repay its zero-interest loan on REA rather than the Borrower. In those situations, REA will require a third-party guarantee to provide the necessary assurance that the REA zero interest loan will be repaid.

REA is proposing to revise § 1703.25, "Approval of agreements." this section covers agreements between the REA Borrower and the owner of a rural economic development Project. REA must obtain sufficient information about these third-party or pass-through transactions to fulfill its responsibilities but wishes to reduce the administrative burden to the extent possible. REA has proposed to revise this section to permit prior approval of the final draft version of the documents such as the loan agreement, security agreement and note. REA proposes to add § 1703.24(c) to direct and caution REA Borrowers to make agreements and prepare documents with the owner of the rural development Project, or those undertaking the Project, that are in accordance with all applicable laws.

It is proposed to add § 1703.29(c) and (e), § 1703.30(b) and § 1703.31 (b), (c) and (d) to cover situations where the REA Borrower no longer wants funds for a selected application, fails to complete its application, fails to satisfy conditions prerequisite to release of funds, or does not spend funds on the rural economic development Project in a reasonable time period. Additionally, REA proposes to add § 1703.29(d) to cover situations where there is a change in the purpose of a loan or grant rather than just a change in the method of carrying out a particular purpose.

REA proposes to revise § 1703.32(a) to provide more details about records that must be available to support the disbursement of REA funds. Since third parties are generally undertaking these rural development Projects, it becomes a greater challenge to provide those reviewing the Project, such as the REA field accountant, with the necessary supporting records. The proposed change will permit REA and others to make necessary reviews of the use of Federal funds yet at the same time take into account the involvement of third parties.

REA has proposed provisions under § 1703.32(b) that require an REA Borrower to return any amounts used for unapproved purposes as a prepayment on the note. Finally, a new subsection, 1703.32(d), is proposed that would require an REA Borrower to notify REA if the entity that received the proceeds

of the zero interest loan is in default on its loan to the Borrower.

REA has received some complaints about tying the receipt of rural development assistance from REA Borrowers to acceptance of electric service. This topic has been discussed recently in several industry seminars. In view of the continuing interest in this subject, REA invites comments from the public on whether any REA regulation in this area is necessary or desirable. Persons urging provisions in this rule addressing tying arrangements are asked to elaborate on the basis for their views and to suggest specific ways in which they think the proposed rule should be modified to address their concerns.

Finally, REA is proposing to change the name of this program to the Rural Economic Development Financing Program. There have been several new programs that have authorized loans and grants for REA Borrowers for rural economic development. We wish to distinguish this program from others with a title that doesn't rely simply on the ability to provide loans and grants. Any suggestions for alternative titles are welcome.

List of Subjects in 7 CFR Part 1703

Community development, grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

For reasons set forth in the preamble, REA hereby proposes to amend 7 CFR chapter XVII by revising part 1703, subpart B, as set forth below:

1. The authority citation for 7 CFR part 1703 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; Title I, Subtitle D, Section 1403, Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

2. Subpart B is revised to read as follows:

Subpart B—Rural Economic Development Financing Program

Sec.

- 1703.10 Purpose.
- 1703.11 Policy.
- 1703.12 Definitions.
- 1703.13 Source of funds.
- 1703.14 Eligibility.
- 1703.15 Disposition of funds in the subaccount.
- 1703.16 Purposes of zero interest loans and grants.

Sec.

- 1703.17 Documenting the evaluation of applications for zero interest loans and grants.
- 1703.18 Significance of REA financing to the total project costs.
- 1703.19 Preference for zero interest loans over grants.
- 1703.20 Limitations on the use of zero interest loan and grant funds.
- 1703.21 Owner's equity in the project.
- 1703.22 Maximum and minimum sizes of a zero interest loan or grant.
- 1703.23 Terms of zero interest loan repayment.
- 1703.24 Approval of agreements.
- 1703.25 Transfer of employment or business.
- 1703.26 Environmental requirements.
- 1703.27 Other considerations.
- 1703.28 Applications.
- 1703.29 Review and selection process.
- 1703.30 Final application processing and legal documents.
- 1703.31 Disbursement of zero interest loan and grant funds.
- 1703.32 Review and other requirements.

Subpart B—Rural Economic Development Financing Program

§ 1703.10 Purpose.

(a) This subpart sets forth the Rural Electrification Administration's (REA's) policies and procedures for making zero interest loans and grants to Borrowers in accordance with the Cushion of Credit Payments Program authorized in section 313 of the Act.

(b) The zero interest loans and grants are to be provided for the purpose of promoting rural economic development and rural job creation Projects.

§ 1703.11 Policy.

(a) It is REA's policy to encourage Borrowers to use the Rural Economic Development Financing Program to promote Projects that will result in a sustainable increase in the productivity of economic resources in rural areas and thereby lead to a higher level of income for rural citizens.

(b) REA also encourages Borrowers to promote rural economic development and rural job creation Projects that:

- (1) Are based on sound economic and financial analyses;
- (2) Take a long-term perspective; and
- (3) Will benefit Rural Areas as defined in title I, section 13 of the Act.

(c) Borrowers are encouraged to make deposits into cushion of credit accounts of the Rural Electrification and Telephone Revolving Fund.

(d) REA will maintain liaisons with officials of other Federal, State, regional and local rural development agencies to coordinate this program with other rural economic development programs.

§ 1703.12 Definitions.

Act—the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

Administrator—the Administrator of the Rural Electrification Administration.

Approved Purpose—a purpose that REA has specifically approved in the Letter of Agreement covering the use of the REA zero interest loan and/or grant funds provided to the Borrower.

Borrower—an entity that has outstanding REA and/or Rural Telephone Bank loans or loan guarantees under the provisions of the Act.

Business Incubator—a facility in which small businesses can share premises, support staff, computers, software or hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services or other support. The business incubator program, however, does not necessarily have to involve the sharing of premises.

Demonstration Project—a Project for which the owner agrees in writing to provide REA, if requested, with detailed information on the steps it takes in organizing and operating the Project, will permit REA and REA's guests to make reasonable visits to the Project, and honor any other reasonable REA request to disseminate information on the Project. Examples of information include a description of the process of incorporation, types of financing obtained, permits required by governments, amount of time required for various stages of Project, sources of technical assistance from government programs, private foundations or trade organizations, any experiences or lessons that the owner wishes to share with the public and other information which will assist REA in promoting similar projects. It shall not require the disclosure of trade secrets or proprietary techniques.

Electric or Telephone Purpose—a purpose that:

(1) The Administrator or Governor of the Rural Telephone Bank (RTB) is authorized to finance under sections 2, 4, 5, 201, 305, and 408 of the Act; or

(2) Is characterized as furnishing, generating or transmitting electric energy or other activities involved in providing electricity, or is characterized as providing telephone service. It shall include electric and telephone facilities and equipment used in connection with providing such a purpose. As applied to electric Borrowers, it shall not include community antenna television (CATV) systems or facilities intended

exclusively for educational purposes as set forth in section 203 of the Act. As applied to telephone Borrowers it shall include CATV systems or facilities intended exclusively for educational purposes, as set forth in section 203 of the Act, that the Administrator or Governor of the RTB is authorized to finance under sections 201, 305 or 408 of the Act and the regulations that implement those sections.

Job Creation—creation of jobs in rural areas, or in close enough proximity to rural areas so that it is likely that the majority of the jobs created will be held by residents of rural areas.

Letter of Agreement—a legal document executed by REA and the Borrower that contains certain terms, conditions, requirements and understandings applicable to the zero interest loan and/or grant as determined by the Administrator. It will include, among other things, a Project description, Approved Purposes for the zero interest loan and/or grant, the maximum amount of zero interest loan and/or grant, supplemental funds to be provided to the Project and certain agreements or committees the Borrower proposed in its application.

Pass-through-grant—a grant that the Borrower makes to another entity that will own or undertake the Project using the proceeds of the REA grant.

Pass-through-loan—a loan that the Borrower makes to another entity that will own or undertake the Project using the proceeds of the REA zero interest loan.

Project—is an undertaking which develops the economy of a rural area or results in Job Creation. As used in subpart B, the term "Project" includes both direct undertakings by Borrowers as well as those sponsored by other parties using the proceeds of Pass-through-loans or Pass-through-grants.

REA—the Rural Electrification Administration, an agency of the United States Department of Agriculture.

Reasonable Loan Servicing Charges—charges for expenses the Borrower incurs to service a loan provided to another entity unaffiliated with the Borrower using the proceeds of the REA zero interest loan. The charges over the life of the loan for routine loan service expenses shall not exceed an amount equal to the sum of one percent per year of the outstanding principal on the first day of each year on the Borrower's REA zero interest loan. The charges for extraordinary expenses associated with collection of delinquent payments or other similar expenses must receive the prior approval of REA.

Rural Area—a rural area as defined in section 13 of the Act.

Rural Economic Development

Account—a Federally insured account into which the Borrower deposits any advances of zero interest loan funds from REA until the Borrower disburses the funds.

Significant Stockholder—an owner or holder of five percent or more of the common stock (or shares) or five percent or more of the preferred stock (or shares) of the REA Borrower.

Technical Assistance—Feasibility studies, market research, environmental studies and similar activities that are generally characterized as studies, analyses or designs.

§ 1703.13 Source of funds.

All funds for zero interest loans and grants provided under this program shall come from interest differential credits to the Rural Economic Development Subaccount (Subaccount), other funds made available to the Subaccount, and from the repayment of zero interest loans into the Subaccount.

§ 1703.14 Eligibility.

Zero interest loans and grants may be made to any Borrower that is not delinquent on any Federal debt or in bankruptcy proceedings. However, a zero interest loan or grant will not be made to a Borrower during any period in which the Administrator has determined that no additional financial assistance of any nature should be provided to the Borrower pursuant to any provision of the Act. The determination to suspend eligibility for assistance under this subpart will be based on one or more of the following factors:

(a) The Borrower's demonstrated unwillingness to exercise diligence in repaying REA loans or loan guarantees that results in the Administrator being unable to find that a loan, or loan guaranteed by REA, would be repaid within the time agreed;

(b) The Borrower's demonstrated unwillingness to meet requirements in REA's legal documents or regulations; or

(c) Other actions on the part of the Borrower that thwart the achievement of the objectives of the REA program.

§ 1703.15 Disposition of funds in Subaccount.

Zero interest loans and grants will be made during each fiscal year to the full extent of the amounts held in the Subaccount subject only to limitations imposed by law. For administrative purposes, REA will make a determination of the fiscal year-end amount held in the Subaccount as of a date prior to, but as near as practicable to, the end of fiscal year.

§ 1703.16 Purposes of zero interest loans and grants.

(a) Zero interest loans and grants shall be used exclusively to promote rural economic development and/or Job Creation Projects, including, but not limited to, Project feasibility studies, start-up costs, Business Incubator Projects, and other reasonable expenses for the purpose of fostering rural economic development.

(b) REA shall give preference to applications for rural economic development and/or Job Creation Projects that are not currently funded under other Federal rural development programs authorizing Borrowers to receive financial assistance, including other REA programs. REA shall give preference to providing funds under this subpart for Projects other than Business Incubator Projects to the extent funds are available to Borrowers for Business Incubator Projects from a Rural Business Incubator Fund administered by the Administrator.

(c) Zero interest loans and grants shall not be used for any Electric or Telephone Purpose, as determined by the Administrator.

(d) Zero interest loans and grants shall not be used for proposed Projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*)

§ 1703.17 Documenting the evaluation of applications for zero interest loans and grants.

(a) REA will select applications that receive the greatest number of total points based on the factors in this section, subject to available funds and the provisions of §§ 1703.17(d), 1703.18, and 1703.19. REA will make the determination of all numbers, dollars, levels and rates, as well as the nature, costs, location and other characteristics of the proposed Project, to determine the number of points assigned to an application for each selection factor. Applications for zero interest loans and grants will be ranked separately. In addition, applications requesting less than five percent of the total Project costs as provided in § 1703.18 will be ranked separately.

(b) REA will not select an application unless the Project will receive supplemental funds in an amount at least equal to 20% of the REA zero interest loan or grant to be provided to the Project, as determined by the Administrator. Supplemental funds as used in this section may come from the Project owner in the form of equity funds, private sources, State and local government sources, other Federal government sources, the Borrower or

other sources. The minimum amount of supplemental funds must be provided to the Project after REA receives the Borrower's application. Prior to the advance of REA funds, REA must verify that any owner equity funds have been provided to the Project and any funds from other sources have been committed to the Project.

(c) The number of points assigned for each selection factor shall be determined as follows:

(1) The amount of supplemental funds provided or to be provided to the Project from the Project owner in the form of equity funds, private sources, State and local government sources, other Federal government sources, the Borrower or other sources of funds. The supplemental funds used in this calculation must be provided to the Project during the period covering six months prior to the receipt of the application by REA and two years after the first advance of REA funds for the Project. REA will determine what constitutes expenditures on the Project. If supplemental funds as a percentage of the REA zero interest loan and/or grant to be provided to the Project is:

- (i) Equal to 20%—10 points, the minimum number of points;
- (ii) Equal to 100%—20 points;
- (iii) Equal to 500%—30 points, the maximum number of points.

Ratios of supplemental funds to REA funds falling between these levels will be assigned points based on a straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of $\frac{1}{2}$ or greater equals 1.

(2) A comparison of the unemployment rate in the county where the Project will be located to the State and National unemployment rates.

(i) If the unemployment rate in the county where the Project will be located:

(A) Exceeds the National unemployment rate by 30 percent or more—10 points, the maximum number of points;

(B) Is equal to the National unemployment rate—5 points;

(C) Is equal to or less than 75 percent of the National unemployment rate—1 point, the minimum number of points.

(ii) If the unemployment rate in the county where the Project will be located:

(A) Exceeds the State unemployment rate by 30 percent or more—8 points, the maximum number of points;

(B) Is equal to the State unemployment rate—4 points;

(C) Is equal to or less than 75 percent of the State unemployment rate—1 point, the minimum number of points.

Unemployment rates falling between these levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of $\frac{1}{2}$ or greater equals 1. If the Project will be located in several counties, REA will use a simple average (mean) of the counties for the comparison. REA will use the average of the most recent twelve months of unemployment rates it has obtained from the Bureau of Labor Statistics, U.S. Department of Labor or other government sources and processed into a suitable format.

(3) A comparison of the per capita personal income in the county where the Project will be located to State and National per capita personal income levels.

(i) If the per capita personal income level in the county where the Project will be located:

(A) Is less than or equal to 90 percent of the National per capita personal income level—10 points, the maximum number of points;

(B) Is equal to the National per capita personal income level—5 points;

(C) Exceeds the National per capita personal income level by 15 percent or more—1 point, the minimum number of points.

(ii) If the per capita personal income level in the county where the Project will be located:

(A) Is less than or equal to 90 percent of the State per capita personal income level—8 points, the maximum number of points;

(B) Is equal to the State per capita personal income level—4 points;

(C) Exceeds the State per capita personal income level by 15 percent or more—1 point, the minimum number of points.

Per capita personal income levels falling between these levels will be assigned points based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of $\frac{1}{2}$ or greater equals 1. If the Project will be located in several counties, REA will use a simple average (mean) of the counties for the comparison. REA will use the most recent annual per capita personal income levels it has obtained from the Bureau of Economic Analysis, U.S. Department of Commerce or other government sources and processed into a suitable format.

(4) The number of long-term jobs that the Project will directly create in rural areas:

(i) For one or more direct, long-term jobs per \$10,000 of total Project costs—10 points, the maximum number of points;

(ii) For one direct, long-term jobs per \$20,000 of total Project costs—5 points;

(iii) For no direct, long-term jobs—0 points.

REA will consider a Project such as construction of an industrial building or business incubator to be directly creating jobs once it is occupied. REA will also consider water and sewer facilities that are necessary for a new business to be directly creating jobs. This factor will not count indirect job creation that results from an overall increase in the local economy once the Project is completed. If total Project costs per job falls between these levels, points will be assigned based on straight-line interpolation calculated to the nearest whole point. The result will be rounded based on the standard convention of a fraction of $\frac{1}{2}$ or greater equals 1.

(5) Projects that have a written plan to provide opportunities or incentives to improve marketable skills for people in rural areas through training and/or education, or Projects which consists of providing this training and/or education.—10 points.

(6) Projects that lead directly to an increase in long-term productivity and per capita income in rural areas—up to 20 points. REA's determination will be based on the extent to which the Project will improve the productive potential of the labor force, industrial plant, infrastructure, natural resources and institutions by utilizing advanced technology, creating higher skilled occupations, adding higher value to natural resources, creating jobs with higher career potential or is considered part of a knowledge intensive industry. In considering infrastructure, REA will award points only for the facilities, such as water and sewer facilities, that will serve and are necessary for businesses, industrial parks and similar commercial activities.

(7) Projects that will strengthen a weak or depressed economy in rural areas served by a Borrower, as determined by REA, taking into account the financial condition of the Borrower and the impact of the Project on the Borrower—up to 10 points.

(8) Commitment from the owner(s) of the Project that the Project will be a Demonstration Project—5 points.

(9) Projects that will be located in Rural Areas (population of 1,500 or less)

or will provide greater benefit to Rural Areas than other areas. The points will be based on the following:

(i) Projects that will be located in Rural Areas—20 points;

(ii) Projects that will provide greater benefit to Rural Areas than other areas, as determined by the Administrator—15 points.

(10) Projects organized on a not-for-profit basis that:

(i) Provide services to rural businesses and/or areas, such as management training and advice, education, training for community leaders and providing assistance in market research;

(ii) Expand the institutional base; and

(iii) Promote economic development in rural areas—5 points.

(11) Projects that in REA's best judgment have the greatest probability of success as measured by long-term job creation or retention, and long-term rural economic development.—up to 20 points. REA's determination will be based on the ultimate recipient's feasibility studies, income statements, cash flow statements, existing and projected balance sheets, especially the equity (and grant) financing to debt financing ratio, market research, industry trends and current economic conditions given the nature of the Project. Long-term job creation and rural economic development as used for this factor shall mean jobs or development that would generally be expected to last at least five years.

(12) Applications submitted by Borrowers that have made cushion of credit payments as set forth in Section 313 of the Act based on the following:

(i) If the Borrower has \$300,000 or three percent of total assets, whichever is less, in Cushion of Credit payments on the date REA receives the application—15 points;

(ii) If the Borrower has \$100,000 or one percent of total assets, whichever is less, in Cushion of Credit payments; on the date REA receives the application—10 points;

(iii) If the Borrower has at least \$5,000 or 0.5 percent of total assets, whichever is less, in Cushion of Credit payments on the date REA receives the application—5 points.

The calculation of a Borrower's total assets will be based on REA's most recently published Statistical Report, Rural Electric Borrowers (REA Bulletin 1-1) or Statistical Report, Rural Telephone Borrowers (REA Bulletin 300-4). If the amount of Cushion of Credits payments falls between these levels, points will be based on a straight-line interpolation calculated to the nearest whole point. The result will be rounded

based on the standard convention of a fraction of $\frac{1}{2}$ or greater equals 1.

(13) The knowledge, experience, education and training of the proposed owners and management of the Project—up to 10 points.

(14) The ultimate recipient's business plan—up to 20 points. REA's determination will be based on the quality of the business plan. The business plan should include the following: a description of the Project, what will be produced or accomplished, the area to be served, any market research, total Project costs, projected use of funds by purpose or category, a feasibility study with projected balance sheets, income statement and cash flow statements, the source of supplemental funds, the nature and strength of commitments from other sources of financing, the equity contribution, the proposed ownership and management of the Project and other relevant information. The plan should describe any coordination with a local, regional or state development organization. REA expects the ultimate recipient's business plan to be comparable to a plan normally submitted to a bank for long-term financing.

(15) Quality and completeness of Borrower's application—up to 10 points. REA's determination will be based on the completeness and quality of the Borrower's application as outlined in § 1703.28 of this subpart.

(16) Projects that in the judgement of REA will diversify the rural economic base or indirectly create jobs—5 points.

(17) The extent to which the nature of the Project will promote rural economic development and/or job creation—up to 20 points.

(i) REA will base its determination for this factor on whether the Project:

(A) Is considered a start-up or expansion of a business, a Business Incubator, an industrial building or park, or infrastructure necessary to connect these projects to existing infrastructure;

(B) Will provide long-term employment for people in rural areas; or

(C) Will train or educate people or provide rural economic development advice to businesses of people, including educational television to schools.

(ii) Points will not be awarded for Projects that:

(A) Are normally provided as Federal, State or local government services unless they will directly create long-term jobs comparable to private business jobs;

(B) Consist of land that will not be used as the site for a structure; or

(C) Will be used for residential purposes or that will be used for

entertainment purposes at the residential level, such as residential dwellings and land sites, entertainment cable television, and a personal, non-business related vehicle.

(d) Regardless of the number of points assigned to a Borrower's application, REA may:

(1) Limit the number of applications selected in any one state during any fiscal year to the ratio of REA or RTB Borrowers in that state to the total number of REA or Rural Telephone Bank Borrowers multiplied by three, or ten percent of the total number selections that have been made during the current fiscal year, or ten, whichever is greatest. The number of REA and Rural Telephone Bank Borrowers shall be determined as of the latest published REA Statistical Reports;

(2) Limit a Borrower to one selected application during any selection period;

(3) Allocate available funds between applications from Electric and Telephone Borrowers;

(4) Decline to select an application that the Administrator has determined would not accomplish the purpose of promoting economic development and job creation in rural areas;

(5) Decline to select an application that would harm the reputation of this program;

(6) Decline to select an application for funds that will transfer property or real estate between owners without making any additions or improvements which will promote economic development, as determined by REA;

(7) Decline to select an application based on the management and financial situation of the Borrower applying for the zero interest loan or grant. In determining the Borrower's financial situation, REA will consider, among other things, the Borrower's existing and projected cash flows, equity to asset ratios, times interest earned ratios, debt service coverage ratios, the level of its investments, the level of its cash and other liquid assets, its working capital and repayment of its debts;

(8) Decline to select an application based on a determination that limitations under State laws will lessen the likelihood of repayment of the REA zero interest loan in the event that the Borrower does not receive funds from the Project necessary to cover the REA zero interest loan payments;

(9) Decline to select an application based on the unwillingness of the Borrower applying for the zero interest loan or grant to exercise diligence in repaying REA loans or loan guarantees, and comply with REA's legal documents and regulations;

(10) Select an application receiving fewer points than another application if there are insufficient funds during a particular budget period to select the higher ranked application;

(11) Select the highest ranking application for funds to finance a project that consists of preparing a feasibility study.

(e) REA will only evaluate, and consider for selection, applications that request funds for purposes set forth in § 1703.16, as determined by the Administrator. REA will not evaluate applications that do not conform with all of the provisions of this subpart, as determined by the Administrator.

§ 1703.18 Significance of REA financing to the total project costs

Selection of applications shall be based on a preference for applications requesting REA financing which will be at least equal to five percent of the total Project costs, as determined by the Administrator. Projects costs shall be based on the amount that would be spent over the first two years after the first advance of REA funds for the Project.

§ 1703.19 Preference for zero interest loans over grants.

Selection of applications shall be based on a preference for providing Borrowers zero interest loans rather than grants under this program.

§ 1703.20 Limitations on the use of zero interest loan and grant funds.

(a) Zero interest loans and grants shall not be used:

(1) To fund or assist Projects of which any director, officer, general manager or Significant Stockholder of the Borrower, or close relative thereof, is an owner, or which would, in the judgment of REA, create a conflict of interest or the appearance of a conflict of interest. However, REA shall not consider cooperative members to be owners of the Borrower in making this determination. Without limiting the generality of the foregoing, ordinarily, a Borrower organized as a closely held, for-profit corporation, its subsidiary or an affiliate, would only be able to own or manage a Project operated on a not-for-profit basis;

(2) For any costs incurred on the Project:

(i) Prior to receipt of the Borrower's completed application by REA during an application period unless REA has specifically approved such usage in writing;

(ii) Prior to the selection of the application covering the Project by the Administrator, except for such costs that are included in the Approved Purposes,

which REA has determined were necessary to initiate the Project; or

(iii) For site development, the destruction or alteration of buildings, or other activities that would adversely affect the environment or limit the choice of reasonable alternatives prior to satisfying the requirements of § 1703.26, Environmental requirements, as determined by the Administrator;

(3) By the recipient of a Pass-through-loan or Pass-through-grant to purchase or lease any real property, materials, equipment or services from the Borrower, or Significant Stockholders, officers, managers or directors of the Borrower, or close relatives thereof, in excess of a level that would reasonably be considered the fair market value, as determined by the Administrator;

(4) By the Borrower to purchase or lease any real property, materials, equipment or services that would create a conflict of interest or the appearance of a conflict of interest, as determined by the Administrator;

(5) For refinancing indebtedness incurred prior to receipt of the Borrower's completed application by REA;

(6) For the Borrower's electric or telephone operations nor for any operations affiliated with the Borrower unless the Administrator has specifically informed the Borrower in writing that the affiliated operations are part of the approved REA loan or grant purposes; or

(7) For any purpose that the Administrator has not approved.

(b) A Borrower may not charge interest for the use of the proceeds of the zero interest loan provided under this program; however, it may charge Reasonable Loan Servicing Charges and the amount paid for an irrevocable Letter of Credit made payable to REA and issued on behalf of the Borrower that guarantees repayment of an REA zero interest loan, as determined by the Administrator.

(c) A Borrower must calculate any costs to charge in connection with the use of grant funds under this program for the Project and shall temporarily deposit the grant funds in accordance with 7 CFR part 3015, Uniform Federal Assistance Regulations, and 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, as appropriate.

(d) A Borrower may not make a profit from any zero interest loan or grant provided from the Subaccount.

(e) The Borrower shall temporarily deposit the zero interest loan funds into a separate Federally insured account

called the Rural Economic Development Account unless the funds will be disbursed within one month. However, all interest earned on temporarily deposited funds in excess of \$250 per year must be used for Approved Purposes or returned to the Rural Economic Development Subaccount.

§ 1703.21 Owner's equity in the project.

The Administrator may require, as a condition to REA financing, that owner(s) of the Project invest equity capital if determined to be financially necessary, based on an REA financial analysis and sound lending practices.

§ 1703.22 Maximum and minimum sizes of a zero interest loan or grant.

The maximum size of a zero interest loan or grant shall be \$10,000. The Administrator shall establish and may periodically increase or decrease the maximum size of a zero interest loan or grant taking into account such factors as the amount of funds to be made available from the Subaccount and the Borrowers' applications for zero interest loans and grants. The Administrator shall publish the maximum size of a zero interest loan or grant in the *Federal Register*. For an exceptionally beneficial Project, the Administrator may waive the minimum size limitations in this section.

§ 1703.23 Terms of zero interest loan repayment.

(a) REA shall determine the terms and repayment schedule of the zero interest loan to the Borrower based on the nature of the Project and Approved Purposes. Ordinarily, the total term of the zero interest loan, including any principal deferment period, shall not exceed 10 years. In general, the repayment terms the Borrower sets on a Pass-through-loan must be at least as generous as the zero interest loan provided to the Borrower but, with the Administrator's approval, may be more generous.

(b) REA has the discretion to defer the repayment of principal up to two years, based on its analysis of the feasibility of the Project. Ordinarily, if REA considers the Project to be a business expansion or going concern, the first repayment of principal will not begin until one year after the date of the REA note. This should provide sufficient time for the Borrower to satisfy the prerequisites to the advance of loan funds. Ordinarily, if REA considers the Project to be a start-up project, the first repayment of principal will not begin until two years after the date of the REA note. Loans shall be repaid in equal monthly payments of principal.

(c) Unless the Administrator has specifically approved otherwise, the Borrower shall be required to repay the REA zero interest loan in full at such time as a Pass-through-loan has been fully repaid to the Borrower. If the Borrower uses the proceeds of the REA zero interest loan to provide Pass-through-loans to more than one entity, this requirement shall only apply to that portion of the zero interest loan associated with the loan that has been fully repaid to the Borrower.

(d) If the Administrator determines that, as a result of state law, court rulings or regulatory commission decisions, it is necessary to ensure that the Borrower will repay the REA zero interest loan, the Borrower may be required to provide an irrevocable letter of credit, or another form of guarantee satisfactory to the Administrator. The letter of credit or other guarantee is to be made payable to REA and issued on behalf of the Borrower. The letter of credit, or other guarantee, may not be secured by any assets under a REA and/or Rural Telephone Bank mortgage and must be in form and substance satisfactory to the Administrator. REA must receive the letter of credit or other guarantee prior to the advance of any zero interest loan funds.

§ 1703.24 Approval of agreements.

REA must approve any agreements between the Borrower and the owner(s) of the Project, those undertaking the Project, or any intermediary that will re-lend or transfer the proceeds of the REA funds, that the Administrator deems necessary.

(a) Borrowers must obtain REA approval of any loan, grant or security agreement, mortgage or note between the Borrower and the owner(s) of the Project, those undertaking the Project or any intermediary that will re-lend or transfer the proceeds of the REA funds, prior to the advance of REA zero interest loan or grant funds to the Borrower. The Borrower must receive REA's approval of the final draft version of the documents prior to their execution.

(b) Borrowers must obtain REA's written approval prior to revising or amending any loan, grant or security agreement, mortgage or note that has been reviewed and approved by REA pursuant to § 1703.24(a). Additionally, the Borrower must obtain REA's written approval prior to executing, revising or amending any other agreement, in connection with the Project, between the Borrower and the owner(s) of the Project, those undertaking the Project or any intermediary that will re-lend or transfer the proceeds of the REA funds.

(c) The Borrower and the owner(s) of the Project, or those undertaking the Project, should make agreements and prepare documents in accordance with all applicable laws.

(Approved by the Office of Management and Budget under control number 0572-0086)

§ 1703.25 Transfer of employment or business.

The Project must not result primarily in the transfer of any existing employment or business activity from one area to another.

§ 1703.26 Environmental requirements.

(a) Prospective recipients of zero interest loans or grants must consider the potential environmental impact of their proposed Projects at the earliest planning stage and plan development in a manner that reduces, to the extent practicable, the potential to affect the quality of the human environment adversely.

(b) *Application for zero interest loans or grants for Technical Assistance.* The application for a zero interest loan or grant for Technical Assistance is generally covered by 7 CFR 1794.31(b) (13) and (14). Consequently, no Borrower's Environmental Report or other environmental documentation is normally required to support such an application.

(c) *Application for zero interest loans or grants for a Project that is not considered Technical Assistance.* REA will review support materials in the application and initiate an environmental review process pursuant to 7 CFR part 1794. This process will focus on any environmental concerns or problems that are associated with the Project. The level and scope of the environmental review will be determined in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council of Environmental Policy for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), REA's Environmental Policies and Procedures (7 CFR part 1794) and other relevant Federal environmental laws, regulations and Executive Orders. Activity related to the Project that will adversely affect the environment or limit the choice of reasonable alternatives shall not be undertaken prior to completion of REA's environmental review process.

§ 1703.27 Other considerations.

(a) *Equal opportunity and nondiscrimination requirements.* All

zero interest loans and grants made under this subpart are subject to the nondiscrimination provisions of title VI of the Civil Rights Act of 1964, as amended (7 CFR part 15); section 504 of the Rehabilitation Act of 1973, as amended (7 CFR part 15b); the Age Discrimination Act of 1975, as amended (45 CFR part 90); and Executive Order 11246, as amended by Executive Order 11375.

(b) *Architectural Barriers.* All facilities financed with REA zero interest loans or grants that are open to the public or in which physically handicapped persons may be employed or reside must be designed, constructed, and/or altered to be readily accessible to, and usable by handicapped persons. Standards for these facilities must comply with the Architectural Barriers Act of 1968, as amended, and with the Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR part 101-19, subpart 101-19.6).

(c) *Flood hazard area precautions.* In accordance with 7 CFR part 1788, if the Project is in an area subject to flooding, flood insurance must be provided to the extent available and required under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 through 4128). The insurance shall cover, in addition to the buildings, any machinery, equipment, fixtures and furnishings contained in the buildings. REA shall comply with Executive Order 11988, Floodplain management, in considering the application for the Project.

(d) *Real property acquisition.* Any acquisition of real property in connection with this program is subject to 7 CFR Part 21, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. Owners of real property acquired under Federal or federally-assisted programs, and persons displaced from their dwellings, businesses, or farms as a result of such an acquisition, must be provided fair, consistent, and equitable treatment, as defined by these regulations.

(e) *Drug-Free Workplace.* Grants made under this program are subject to the requirements set forth in 7 CFR Part 3017, Subpart F, Drug-Free Workplace Requirements, which implements the Drug-Free Workplace Act of 1988. A Borrower requesting a grant will be required to certify that it will establish and make a good faith effort to maintain a drug-free workplace program.

(f) *Debarment and Suspension.* The requirements of EO 12549, Debarment and Suspension, and 7 CFR part 3017, subparts A through E, Governmentwide

Debarment and Suspension (Nonprocurement), regarding debarment and suspension are applicable to this program.

(g) *Intergovernmental Review of Federal Programs.* This program is subject to the requirements of Executive Order (EO) 12372, Intergovernmental Review of Federal Programs and 7 CFR Part 3015, Subpart V, Intergovernmental Review of Department of Agriculture Programs and Activities, which implements EO 12372. With the exception of zero interest loans and grants for Technical Assistance, proposed Projects are subject to the State and local government review process set forth in 7 CFR part 3015. Under the review process, State and local governments have 60 days to comment on the proposed Project. REA will not give final approval to an application until the requirements of 7 CFR part 3015, Subpart V, regarding State and local government review have been satisfied.

(h) *Restrictions on Lobbying.* The restrictions and requirements imposed by U.S.C. title 31, section 1352, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions" and the implementing regulation, 7 CFR part 3018, New Restrictions on Lobbying, are applicable to this program. The regulation that implements this statute requires applicants for a zero interest loan in excess of \$150,000 and applicants for a grant in excess of \$100,000 to file a certification statement regarding the use of Federal appropriated funds to lobby the Executive and Legislative branches of the Federal Government and to file a disclosure form if engaged in these activities using unappropriated funds. In addition, persons that receive contracts or subcontracts in excess of \$150,000 under a zero interest loan and persons that receive subgrants, contracts or subcontracts in excess of \$100,000 under a grant are required to file certification statements regarding lobbying the Executive and Legislative branches and, if engaged in these activities, to file disclosure forms.

§ 1703.28 Applications.

(a) Borrowers may file an application on any official workday during the first fourteen days of every month. A Borrower shall send a copy of the application, except for an application that requests a zero interest loan or grant for Technical Assistance, to the State government point of contact at the same time it submits the application to REA. As discussed in § 1703.27(g), State and local governments have 60 days to

review a Borrower's proposal before REA gives final approval to an application, except a proposal for Technical Assistance.

(b) An application shall consist of an original and two copies of:

(1) A completed application form, "Application for Federal Assistance," Standard Form 424;

(2) A board resolution that:

(i) Requests a zero interest loan and/or grant, including the amount of the zero interest loan and/or the amount of the grant rounded to the nearest one thousand dollars;

(ii) Includes the total term requested for a zero interest loan;

(iii) Specifies any commitment from the Borrower to the owner of the proposed Project;

(iv) States the proposed Project will not violate § 1703.20, "Limitations on the use of zero interest loan and grant funds";

(v) Authorizes an official to requisition zero interest loan or grant funds under this program; and

(vi) For an application for a grant only, authorizes the chief executive officer of the Borrower to execute and deliver on behalf of the Borrower the certification Form AD-1049 regarding a drug-free workplace program;

(3) The following completed forms:

(i) Form AD-1047, "Certification Regarding Debarment Suspension, and Other Responsibility Matters—Primary Covered Transactions,";

(ii) Assurance statement or certification statement required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. For Pass-through-loans and Pass-through-grants, the ultimate recipient of the proceeds of the REA zero interest loan or grant must sign the assurance statement that it will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (the "Uniform Act") or sign a certification that the rural development Project which will be partially financed with the proceeds of REA funds will not result in the acquisition of real property or the displacement of any person, and as a result, the provisions of the Uniform Act will not apply. If the Borrower will not provide a Pass-through-loan or Pass-through-grant to another entity, the Borrower must submit a completed assurance statement or certification regarding the Uniform Act, or have such an assurance statement on file at REA;

(4) If applicable for the Borrower or application:

(i) For an application for a zero interest loan in excess of \$150,000 or for

an application for a grant in excess of \$100,000, a certification statement, "Certification Regarding Lobbying," and, if the Borrower is engaged in lobbying activities described under § 1703.27(h), a completed disclosure form, "Disclosure of Lobbying Activities"; and

(ii) For an application for a grant only, a completed certification form, "Certification Regarding Drug-Free Workplace Requirements (Grants)," Form AD-1049;

(5) A section entitled "Selection Factors" that discusses or provides information on each selection factor described in § 1703.17. In discussing:

(i) "Supplemental Funds"

(§ 1703.17(c)(1)), include the name of each source and the respective amount of supplemental funds that was provided to the Project within six months of submitting the application to REA and the amount that will be provided within two years of receiving REA funds. Also indicate the nature and strength of the commitments to make these supplemental funds available, when these funds will be disbursed, any special terms and conditions associated with the commitments, copies of the commitments, and, if established, the interest rate, term and deferment period on any loan for the Project;

(ii) "Unemployment Rates"

(§ 1703.17(c)(2)), it is not necessary to include the county, State or National unemployment rates. REA obtains these rates from other Federal agencies. List the county or counties in which the Project will be located;

(iii) "Per Capita Personal Income"

(§ 1703.17(c)(3)), as with "Unemployment Rates," it is not necessary to include the county, State or National per capita personal income levels;

(iv) "Long-term Jobs" (§ 1703.17(c)(4)), include the number of long-term jobs that the Project will directly create in rural areas and the total Project cost;

(v) "Plan for Improving the Marketable Skills of People in Rural Areas" (§ 1703.17(c)(5)), include information on any written plan for the Project to provide opportunities or incentives to improve the marketable skills of people in rural areas through training and/or education. For Projects that consist of providing training or education, indicate how it will benefit people in rural areas;

(vi) "Increasing the Long-term Productivity and Per Capita Income in Rural Areas" (§ 1703.17(c)(6)) address the extent to which the Project will improve the productive potential of the labor force, industrial plant, infrastructure, natural resources and institutions by employing advanced

technology, creating higher skilled occupations, adding higher value to natural resources, creating jobs with higher career potential or is considered part of a knowledge intensive industry;

(vii) "Strengthening the Local Rural Economy" (§ 1703.17(c)(7)) indicate the extent to which the Project will strengthen the economy in the rural areas served by the REA Borrower and the impact of the Project on the REA Borrower;

(viii) "Demonstration Project" (§ 1703.17(c)(8)) a discussion of any commitments from the owner(s) of the Project to be a Demonstration Project and a copy of the written commitment;

(ix) "Rural Area" as Defined in the RE Act" (§ 1703.17(c)(9)), indicate whether or not the Project will be located in a town and, if so, the name of the town. Discuss any benefits of the Project to "Rural Areas" which is defined in the RE Act as areas not included within towns with populations in excess of 1,500;

(x) "Providing Services to Rural Businesses and Developing the Institutional Base" (§ 1703.17(c)(10)) discuss how the Project is organized on a not-for-profit basis to provide services to rural businesses and rural areas. Services discussed could be management training and advice, education, training for community leaders, assistance in providing market research. Depending on the Project, describe how it will contribute to developing these forms of assistance into an institutional structure which will provide long-term benefits for rural areas;

(xi) "Greatest Probability of Success" (§ 1703.17(c)(11)) discuss the ultimate recipient's feasibility study, income statements, cash flow statements, existing and projected balance sheets, especially the equity (and grant) financing to debt financing ratio, market research and industry trends;

(xii) "Cushion of Credit Payments" (§ 1703.17(c)(12)), mention any cushion of credits payments in accounts at REA;

(xiii) "Owners and Management of the Project" (§ 1703.17(c)(13)), discuss how the knowledge, experience, education and training of the proposed owners and management of the Project increases the likelihood of long-term success;

(xiv) "Ultimate Recipient's Business Plan" (§ 1703.17(c)(14)) include a copy of the business plan. The plan should include the following: A description of the Project, what will be produced or accomplished, the area to be served, any market research, total Project costs, projected use of funds by purpose or category, a feasibility study with projected balance sheets, income

statements and cash flow statements, the source of supplemental funds, the nature and strength of commitments from other sources of financing, the equity contribution, the proposed ownership and management of the Project and other relevant information. The plan should describe any coordination with a local, regional or state development organization;

(xv) "Diversifying the Rural Economic Base and Indirect Job Creation" (§ 1703.17(c)(16)) include any information the Borrower desires REA to consider;

(6) A section entitled "Project Description" that, in general, should be more detailed the larger the amount of the zero interest loan and/or grant the Borrower is requesting. This section should consist of:

(i) A description of the proposed rural economic development and Job Creation Project including the nature of the Project, the location of the Project, organizations that will be involved in the Project and the primary beneficiaries of the Project. Also include in this subsection a statement describing whether the Borrower has or will have a direct or indirect (through a subsidiary or affiliated organization) ownership or similar beneficial interest in the facilities to be constructed or in the entity that will occupy or utilize these facilities. In addition, explain whether it seems likely that the proposed Project will be undertaken or completed in the absence of an REA zero interest loan or grant;

(ii) A separate paragraph entitled "Uses of REA Funds and Total Project Costs", that includes a breakdown of the specific uses of REA funds and a breakdown of the specific uses of all funds necessary to ensure completion of the Project. Project costs should be limited to the amount to be spent over the two year period after receiving REA funds;

(iii) For a Project that involves the establishment of a new venture such as a rural Business Incubator, or a similar start-up venture, a discussion of how the costs of establishing, organizing and arranging financing for the venture will be paid, how start-up costs incurred after the venture has been established will be paid, the expected sources of revenue necessary to sustain the Project and revenue and expense projections for the first three years of the Project;

(iv) The total term requested for the REA zero interest loan. If the Borrower will provide a Pass-through-loan to another entity, outline the terms and conditions that the Borrower intends to place on the recipient of the loan funds

including the security arrangements and collateral;

(v) For Pass-through-grants, the terms and conditions that the Borrower intends to place on the ultimate recipient of the grant funds. Include a copy of any proposed grant agreement;

(vi) For Pass-through-loans and Pass-through-grants, a description of the ultimate recipient, including the form of organization and ownership (i.e., corporation, nonprofit corporation, cooperative, partnership, sole proprietor), the owner(s) and the chief officers;

(vii) If the Project involves construction, a brief description of the construction necessary to make the Project operational and the organization involved with the Project that will be responsible for building the Project facilities or having them built;

(viii) A discussion of the manner in which the Borrower intends to monitor the zero interest loan and/or grant proceeds to ensure that they are used only for Approved Purposes;

(ix) If applicable, a discussion that clarifies any aspect of the Project with respect to the restriction that it must not result primarily in the transfer of any existing employment or business activity from one area to another or clarifies any aspect of the Project with respect to limitations in § 1703.20, "Limitations on the use of zero interest loan and grant funds";

(x) If the total application request exceeds \$100,000 or the total amount of zero interest loan and/or grant funds to be provided for a Project under this program exceeds \$100,000, then the Borrower shall be expected to submit a more comprehensive Project proposal. This shall include the information in paragraphs (b)(6)(x) (A), (B) and (C) of this section:

(A) A more detailed business plan and feasibility study prepared for the Project that includes an in-depth discussion of the nature of the business or economic development project, market research pertaining to the business and projected financial statements showing repayment of any zero interest loan;

(B) For Pass-through-loans, a much more detailed discussion of the terms and conditions that the Borrower intends to place on the recipient of the loan funds, especially the proposed security arrangements and collateral. Include a copy of any proposed loan/security agreements and loan notes;

(C) For Pass-through-loans and Pass-through-grants, include a copy of the recipient's corporate charter, the recipient's bylaws, the lease or deed showing the recipient's right to use the Project site, Any operation and

maintenance agreement, or similar arrangement, between the Borrower and the recipient and the name, address and telephone number of the attorney for recipient;

(7) For all applications for zero interest loans and grants, a section entitled "Environmental Impact of the Project." This section must provide information on whether or not the proposed Project will be located within an area protected under the Coastal Barrier Resources Act. No other environmental information is normally required for proposals that are considered Technical Assistance as defined under § 1703.12. All other applications, except for those described in paragraph (b)(7)(iii) of this section, shall include the information specified in paragraphs (b)(7)(i) and (ii) of this section:

(i) A subsection that contains information concerning potential adverse impact on the environment. This data shall include, but not necessarily be limited to:

(A) The size of the Project site;
(B) A map (preferably a U.S. Geological Survey map) of the Project area indicating the Project location;
(C) The presence of floodplains at the Project site;
(D) The amount of property to be cleared, excavated, fenced or otherwise disturbed by the Project;
(E) The use and zoning of the Project site;

(F) Buildings or other major structures, including dimensions, to be constructed or modified;

(G) The presence of wetlands or existing agricultural operations at the Project site; properties listed or eligible for listing in the National Register of Historic Places on or near the Project site; threatened or endangered species or critical habitat on or near the Project site; and

(H) The general nature of the use to which the Project facilities will be put, including any hazardous materials to be used, created, or discharged, any substantial amount of air emissions, wastewater discharge, or solid waste that will be generated.

(ii) A copy of any environmental review, study, assessment, report or other document that has been prepared in connection with obtaining permits, approvals or other financing for the proposed Project from State, local or other Federal bodies. Such material, to the extent relevant, may be used to fulfill the requirements of paragraph (b)(7)(i) of this section.

(iii) Due to the nature and magnitude of likely environmental impacts, the categories of proposed Projects in

paragraphs (b)(7)(ii) (A) and (B) of this section need only provide the additional data on whether the Project site contains or is near a property listed or eligible for listing in the National Register of Historic Places and the information in paragraph (b)(7)(i)(H) of this section:

(A) Internal modifications or equipment additions (for example; relocating interior walls or adding computer facilities) to buildings or other structures.

(B) External changes or additions to existing buildings, structures or facilities requiring new fencing or physical disturbance of less than 0.4 hectare (0.99 acre). A description of the changes shall be provided to REA.

(iv) Notwithstanding paragraphs (b)(7) (i) through (iii) of this section, REA may request additional environmental information in specific cases to satisfy REA's Environmental Policies and Procedures, and Federal environmental laws, regulations and Executive Orders.

(8) Any other information that the Borrower considers relevant.

(c) REA may request additional information it considers relevant from the Borrower.

(d) During the application review process, the Borrower may change the amount of the zero interest loan or grant funds requested or other portions of its application, only if approved by the Administrator. A Borrower that changes its request from a grant to a zero interest loan must submit information necessary for the Administrator to evaluate a loan proposal as set forth in paragraphs (b)(6)(iv) and, if applicable, (b)(6)(x) of this section, and submit a new board resolution requesting the loan.

(The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 0572-0086)

§ 1703.29 Review and selection process.

(a) Periodically, or at such times as the Administrator determines, all eligible applications, completed in accordance with § 1703.27, "Applications" and other sections of this subpart, as determined by the Administrator, that REA has fully reviewed and analyzed, will be considered for selection as provided in § 1703.17. Completed applications received at REA by the 14th day of the month will be considered at the first selection date which occurs at least 40 days after the application was received. Completed applications received at REA after the 14th day of a month will not be considered for selection until a selection date which occurs at least 70 days after

the application was received. The review period of at least 40 days will allow sufficient time for State and local governments to review the proposed Projects under the intergovernmental review process, as set forth in 7 CFR part 3015, and to provide sufficient time for REA to fully review and analyze these applications.

(b) REA will inform a Borrower whether the Administrator has selected its application. REA's selection of an application is not binding on the Administrator and creates no rights in the Borrower. A Borrower that submitted an application which was not selected will be asked to inform REA whether it desires to be reconsidered at a later date. The Borrower may modify the application after it has been considered without resubmitting all the required material in an application, except if it changes the request from a grant to a zero interest loan it must submit information necessary for the Administrator to evaluate a loan proposal as set forth in § 1703.28(b)(6)(iv) and, if applicable, 1703.28(b)(6)(x), and submit a new board resolution requesting a loan. If the Borrower so desires, REA will consider an application for up to one year after the date REA originally received the application. A Borrower may submit new applications as often as it desires.

(c) During the period between the selection of the application and the execution of REA's legal documents, the Borrower shall inform REA if the Project is no longer viable or the Borrower no longer desires a zero interest loan or grant for the Project. Upon a determination by REA to that effect, the selected application will be considered cancelled.

(d) Ordinarily, after the selection of an application, if the Project is no longer viable as originally proposed or if there is a change of purpose of the application, both as determined by REA, the Borrower must resubmit a new application to REA for consideration. At any time after the selection of an application, REA may approve changes in the method of carrying out the purposes of the Project, revise the amount of the zero interest loan and/or grant, revise the loan maturity date and principal deferment period and make other adjustments.

(e) If State or local governments raised objections to a proposed Project under the intergovernmental review process that are not resolved within three months of REA's selection of the application, REA may consider the selection of the application cancelled.

§ 1703.30 Final application processing and legal documents.

(a) After a Borrower has submitted all information the Administrator determines is necessary for the selected application, REA will send the necessary legal documents to the Borrower to execute and return to REA. The legal documents will include a Letter of Agreement and any legal documents the Administrator deems appropriate, including any loan agreements, notes, security instruments, certifications or legal opinions. The Letter of Agreement, will among other things, constitute REA's approval of funds for the Project subject to certain terms and conditions as determined by the Administrator, and include a Project description, Approved Purposes of the zero interest loan and/or grant, the maximum amount of zero interest loan and/or grant, supplemental funds to be provided to the Project and certain agreements or commitments the Borrower proposed in its application.

(b) If the Borrower fails to submit within one year all of the information that the Administrator determines to be necessary for REA to prepare legal documents and satisfy other requirements, REA may consider the selection of the application cancelled.

§ 1703.31 Disbursement of zero interest loan and grant funds.

(a) REA shall disburse grant funds to the Borrower and the Borrower shall disburse grant proceeds to the Project for Approved Purposes in accordance with the provisions of 7 CFR part 3015 and 7 CFR part 3016, as appropriate, the legal documents executed by REA and the Borrower, and applicable REA regulations. REA shall disburse zero interest loan funds to the Borrower and the Borrower shall disburse zero interest loan proceeds to the Project for Approved Purposes in accordance with the legal documents executed by REA and the Borrower and applicable REA regulations. The Borrower shall make payments on a zero interest loan as set forth in the legal documents executed by the Borrower and REA.

(b) If the Borrower fails to satisfy all conditions, requirements and terms prerequisite to the advance of zero interest loan and/or grant funds as set forth in the Letter of Agreement or other REA legal documents within one year after the date of the loan or grant agreement, the zero interest loan and/or grant commitment will be considered rescinded, unless the commitment is specifically extended by REA.

(c) During the period between the execution of REA's legal documents and the disbursement of funds, the Borrower

shall inform REA if the Project is no longer viable or the Borrower no longer desires a zero interest loan or grant for the Project. Upon a determination by REA to that effect, the commitment will be considered rescinded.

(d) If REA zero interest loan and/or grant funds advanced for Approved Purposes have not been used for those purposes within one year of the date of the advance of the funds, then the Borrower shall promptly return to REA the funds advanced for those purposes, and any interest earned on the funds, unless REA has specifically authorized otherwise in the legal documents or provided the Borrower with a written extension. Authorization of an extension rests solely within the discretion of REA for cause shown.

§ 1703.32 Review and other requirements.

(a) REA will review Borrowers receiving zero interest loans or grants, as necessary, to ensure that funds are expended for Approved Purposes. Borrowers receiving zero interest loans or grants shall monitor the Project to the extent necessary to ensure that the Project is in compliance with all applicable regulations, including ensuring that funds are expended for Approved Purposes. The Borrower is responsible for ensuring that disbursements of funds are properly supported with invoices, contracts, or other evidence and that such supporting material is available, at the Borrower's premises, for review by the REA Field Accountant, Borrower's certified public accountant, the Office of Inspector General, the General Accounting Office and any other accountant conducting an audit of the Borrower's financial statements or this rural development program. Borrowers will be required to permit REA to inspect and copy its records and documents that pertain to the Project.

(b) The legal documents executed between the Borrower and REA in connection with a zero interest loan shall contain provisions giving REA discretionary rights and remedies in the event a Borrower fails to comply with this subpart, other Federal regulations and statutes, or the terms, conditions and requirements of the executed legal documents. Regardless of any right or remedy that REA chooses to assert, if the Borrower uses any zero interest loan funds other than for Approved Purposes, the Borrower shall be required to return to REA the amount used for unapproved purposes and it shall be considered a prepayment on the REA note.

(c) Borrowers receiving zero interest loans shall have a financial report an

general accounting or all zero interest loan funds prepared in accordance with the provisions of 7 CFR part 1773, REA Policy on Audits of Electric and Telephone Borrowers.

(d) The Borrower shall promptly notify REA in writing if another entity is in default on a Pass-through-loan between the Borrower and the entity.

(e) Grants provided under this program will be administered under and are subject to 7 CFR part 3015 and 7 CFR part 3016, as appropriate. The Borrower that receives a grant shall be subject to requirements under these regulations which cover, among other things, financial reporting, accounting records, budget controls, record retention and audits.

Dated: July 12, 1991.

Gary C. Byrne,
Administrator.

[FR Doc. 91-17714 Filed 7-29-91; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1225-91]

RIN 1115-AB40

Waiver of Certain Types of Visas

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule with request for comments.

SUMMARY: This rule will amend 8 CFR 212.1(g) to permit district directors of the Immigration and Naturalization Service, acting alone, to waive a nonimmigrant visa or passport under section 212(d)(4)(A) of the Immigration and Nationality Act in individual cases, if satisfied that a nonimmigrant alien was unable to obtain these documents because of an unforeseen emergency. Currently, the district director must seek concurrence of the Department of State Visa Office to grant a waiver of the nonimmigrant visa or passport under such circumstances. This amendment will result in savings of resources for both agencies and reduce the time it takes to admit certain nonimmigrant aliens.

DATES: Written comments must be submitted on or before August 29, 1991.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization

Service, 425 I Street, NW., room 5304, Washington, DC 20536. Please include INS number 1225-91 on the mailing envelope to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT:

Diane Hinckley, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Services, 425 I Street NW., room 7123, Washington, DC 20536, telephone (202) 514-2725.

SUPPLEMENTARY INFORMATION: The revision of this rule changes language that refers to the role of the Department of State Visa Office in granting waivers authorized under section 212(d)(4)(A) of the Act. Currently, in order to grant a waiver of passport or visa, the district director having jurisdiction over the port of entry is required to obtain the concurrence of the Department of State Visa Office. Pursuant to the authority delegated to the Commissioner of the Immigration and Naturalization Service by title 8 U.S.C. section 103 and to the Director of the Visa Office of the Department of State by title 8 U.S.C. section 104, the Commissioner and the Director of the Visa Office, acting jointly, have determined that the current procedure is time consuming for the Visa Office, the ports of entry, and the nonimmigrant alien seeking the waiver. Further, since the applicants for the waiver are already carefully screened at the ports of entry before concurrence from the Visa Office is sought, officers of the Department of State concur with the recommendations from the ports in over 95% of the cases presented. The proposed simplification of the procedure will result in a savings of resources for both agencies and quicker admission of the nonimmigrant alien. If the district director is satisfied that the alien should be granted the waiver, the procedure at the ports of entry will remain the same, except for seeking the Department of State's concurrence. The nonimmigrant will be required to fill out the same application that is now used, the information will be checked, and a fee will be charged. Consequently, the rule is amended to omit the step of obtaining the Department of State's concurrence in waivers of passports or visas when the district director having jurisdiction over the port of entry where the alien applies for admission is satisfied that the alien failed to obtain a visa or passport due to an unforeseen emergency. If the district director is not satisfied that the alien is eligible for the waiver, he shall seek concurrence of the Department of State Visa Office. The Department of State has promulgated a similar regulation to be published at 22 CFR 41.2.

Pursuant to the authority delegated to the Associate Commissioner for Examination under title 8 CFR section 103.1(f), the rule substitutes the Associate Commissioner for Examinations for the Deputy Commissioner as one of the Immigration and Naturalization Service officials who can revoke a waiver previously authorized under section 212(d)(4)(A) of the Act.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 212

Aliens, Documentation,
Nonimmigrant, Passport and visas,
Waivers.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1184, 1225, 1226, 1252; 8 CFR part 2.

2. In § 212.1, the first two sentences in paragraph (g) are revised into three sentences to read as follows:

§ 212.1 Documentary requirements for nonimmigrants

* * * * *

(g) *Unforeseen emergency.* A visa and a passport are not required of a nonimmigrant who, either prior to his or her embarkation at a foreign port or place or at the time of arrival at a port of entry in the United States, satisfies the district director at the port of entry that, because of an unforeseen emergency, he or she was unable to obtain the required documents, in which case a waiver application shall be made on Form I-193. If the district director is not satisfied that the nonimmigrant meets all requirements for the waiver, the

district director shall seek concurrence for the waiver from the Department of State Visa Office. The district director or the Associate Commissioner for Examinations may at any time revoke a waiver previously authorized pursuant to this paragraph and notify the nonimmigrant in writing to that effect.

* * *

Dated: April 11, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

Concurrence:

Dated: May 8, 1991.

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 91-17982 Filed 7-29-91; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 1437]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act; Waiver by Secretary of State and Attorney General of Passport and/or Visa Requirements for Certain Categories of Nonimmigrants

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule amends § 41.2(j) of title 22, Code of Federal Regulations which presently provides for the waiver of the visa and passport requirements by the district director of the Immigration and Naturalization Service at the port of entry, with the concurrence of the Director of the Visa Office, Department of State, if such officials are satisfied that the nonimmigrant alien was unable to obtain the required documentation because of an unforeseen emergency. This rule authorizes the INS District Director to exercise the Department of State's function with respect to waiver of the passport and/or visa requirement under the provisions of section 212(d)(4)(A). The amendment will eliminate time consuming procedures for obtaining the concurrence of passport and/or visa waivers and will benefit this category of nonimmigrant aliens who, because of certain unforeseen circumstances, are subjected to delays

when seeking admission to the United States without the required documents.

DATES: Written comments, in duplicate, must be received on or before August 29, 1991.

ADDRESSES: Comments may be submitted to the Chief of Legislation and Regulations Division, Visa Office, room 1337, 2401 E Street NW., Washington, DC 20522-0113.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Legislation and Regulations Division, Visa Office, Washington, DC (202) 663-1204.

SUPPLEMENTARY INFORMATION: Under present procedures, in cases where a nonimmigrant alien applies for admission to the United States without the required documentation, the Immigration and Naturalization Service's (INS) officer in charge at the port of entry must obtain the concurrence of a State Department official in order to waive the passport and/or visa requirement. This procedure must be followed in all such cases even though, for example, the INS officer has readily available information as to the circumstances relating to the alien's inability to present the required documentation. In most cases in which the officer in charge at the port of entry determines that the alien qualifies for such section 212(d)(4)(A) waiver, he or she must inform the designated official in the Department of the circumstances regarding the absence of documentation and recommend a waiver of the passport and/or visa requirement for the purpose of obtaining the concurrence of the Department's official. Furthermore, this procedure is not only time consuming, but it also requires from designated officers additional administrative work concerning each case. It is disruptive to the performance of the regularly assigned duties of designated Department employees and requires the designation of duty officers for the purpose of providing around-the-clock consultations between the two agencies.

After consultations between the Department and INS officials, it has been determined that, in emergency situations, authorizing the INS officer in charge at the port of entry to perform the functions of both agencies will ease the administrative burden of the granting of such waivers and will decrease delays experienced by certain aliens seeking admission to the United States without the requisite documentation as the benefit from more expeditious processing.

The proposed rule is intended to eliminate time consuming, marginally beneficial, procedures between the two

agencies involved and expedite the processing of certain aliens seeking admission to the United States.

The proposed rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 22 CFR Part 41

Aliens, Documentation, Nonimmigrant, Passport and visas, Waivers.

Accordingly, 22 CFR part 41 would be amended as follows:

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847.

2. In § 41.2 paragraph (j) is revised to read as follows:

§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * *

(j) *Individual cases of unforeseen emergencies.* A visa and passport are not required of an alien if, either prior to the alien's embarkation abroad or upon arrival at a port of entry, the responsible district director of the Immigration and Naturalization Service in charge of the port of entry concludes that the alien was unable to obtain the required documents because of an unforeseen emergency. Any waiver of the visa or passport requirement may be granted by the INS district director pursuant to INA 212(d)(4)(A) without reference to the Department of State in each case in which the district director concludes that the alien's claim of emergency circumstances is legitimate and bona fide and that approval of the waiver would be appropriate under all of the attendant facts and circumstances.

* * *

Dated: April 3, 1991.

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs.

Concurred by:

Dated: April 11, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service Department of Justice.

[FR Doc. 91-17991 Filed 7-29-91; 8:45 am]

BILLING CODE 4710-06-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Health Care Financing Administration****42 CFR Parts 412 and 413**

[BPD-711-CN]

RIN 0938-AE90

**Medicare Program; Changes to the
Inpatient Hospital Prospective
Payment System and Fiscal Year 1992
Rates; Correction****AGENCY:** Health Care Financing
Administration (HCFA), HHS.**ACTION:** Proposed rule; correction.

SUMMARY: In the June 3, 1991 issue of the Federal Register (FR Doc. 91-13059), (56 FR 25178), we proposed to revise the Medicare inpatient hospital prospective payment system and to revise the

amounts and factors necessary to determine prospective payment rates for Medicare inpatient hospital services. These changes would be applicable to discharges occurring on or after October 1, 1991. This notice corrects errors made in that document.

FOR FURTHER INFORMATION CONTACT:
Barbara Wynn, (301) 966-4529.

SUPPLEMENTARY INFORMATION: We are making the following corrections to the June 3, 1991 proposed rule (56 FR 25178):

1. On page 25185, in the second column, under section 8, Refinements of Complications and Comorbidities List, the diagnosis code for Organic hallucinosis syndrome is changed from 292.82 to 293.82.

2. On page 25187, in the first column, in line one of the first partial paragraph, "is similar to those procedures that" is inserted after "procedure that".

§ 413.40 [Amended]

3. On page 25208, in the first column, in § 413.40(g)(4)(ii), beginning on line four, "is 8 percent higher than the rate of increase in the national average hourly earnings for hospital workers" is amended to read "exceeds 108 percent of the increase in the national average hourly earnings for hospital workers."

Addendum, Table 5 [Corrected]

4. Beginning on page 25246, an error was made in the computation of the outlier thresholds listed in the last column of TABLE 5. We have revised Table 5 to reflect the FY 1992 proposed day outlier threshold of 32 days or 3 standard deviations rather than the current day outlier threshold of 29 days or 3 standard deviations. The correct TABLE 5 is shown below in its entirety.

BILLING CODE 4120-01-M

TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
1	01	SURG	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA		
2	01	SURG	CRANIOTOMY FOR TRAUMA AGE >17	3.3418	44
3	01	SURG	* CRANIOTOMY AGE 0-17	3.3220	43
4	01	SURG	SPINAL PROCEDURES	2.8830	42
5	01	SURG	EXTRACRANIAL VASCULAR PROCEDURES	2.4232	42
			1.5245	5.5	35
6	01	SURG	CARPAL TUNNEL RELEASE	.4848	
7	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC WITH CC	2.6581	17
8	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC	.7829	43
9	01	MED	SPINAL DISORDERS & INJURIES	1.2807	35
10	01	MED	NERVOUS SYSTEM NEOPLASMS WITH CC	1.2811	39
				7.7	40
11	01	MED	NERVOUS SYSTEM NEOPLASMS W/O CC	.7803	
12	01	MED	DEGENERATIVE NERVOUS SYSTEM DISORDERS	.8345	38
13	01	MED	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	.8572	38
14	01	MED	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.2198	39
15	01	MED	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	.6541	33
				4.1	
16	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.0830	
17	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	.8315	39
18	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS WITH CC	.8958	38
19	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	.5723	38
20	01	MED	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	1.8272	40
				8.5	
21	01	MED	VIRAL MENINGITIS	1.4657	
22	01	MED	HYPERTENSIVE ENCEPHALOPATHY	.7182	38
23	01	MED	NONTRAUMATIC STUPOR & COMA	.8788	34
24	01	MED	SEIZURE & HEADACHE AGE >17 WITH CC	.8783	38
25	01	MED	SEIZURE & HEADACHE AGE >17 W/O CC	.5273	37
				3.5	28
26	01	MED	SEIZURE & HEADACHE AGE 0-17	.8411	
27	01	MED	TRAUMATIC STUPOR & COMA, COMA >1 HR	1.3450	31
28	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 WITH CC	1.2289	38
29	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE >17 W/O CC	.5511	38
30	01	MED	* TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 0-17	.3498	35
				2.0	17
31	01	MED	CONCUSSION AGE >17 WITH CC	.7131	
32	01	MED	CONCUSSION AGE >17 W/O CC	.4092	38
33	01	MED	* CONCUSSION AGE 0-17	.2427	24
34	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM WITH CC	1.1509	9
35	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	.5849	38
				3.7	36

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
36	02	SURG			
37	02	SURG	.6402	2.1	12
38	02	SURG	.7926	2.9	35
39	02	SURG	.3550	2.1	18
40	02	SURG	.4711	1.5	8
		EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	.5110	2.0	23
41	02	SURG	.3813	1.8	7
42	02	SURG	.8134	2.1	15
43	02	MED	.3540	3.8	24
44	02	MED	.6114	5.5	38
45	02	MED	.5955	3.5	30
		OTHER DISORDERS OF THE EYE AGE >17 W CC	.6715	4.2	38
47	02	MED	.3951	2.7	31
48	02	MED	.3989	2.9	30
49	03	SURG	2.2703	7.0	39
50	03	SURG	.6633	2.2	14
		SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY			
51	03	SURG	.5881	2.0	17
52	03	SURG	.7457	2.4	23
53	03	SURG	.6611	1.9	20
54	03	SURG	.6808	3.2	22
55	03	SURG	.5098	1.8	14
		RHINOPLASTY			
56	03	SURG	.5489	1.8	15
57	03	SURG	.8489	3.4	35
58	03	SURG	.3060	1.5	4
59	03	SURG	.4131	1.5	11
60	03	SURG	.2584	1.5	4
		MYRINGOTOMY W TUBE INSERTION AGE >17	.8180	2.5	35
61	03	SURG	.3052	1.3	5
62	03	SURG	1.0618	3.8	38
63	03	SURG	1.1170	5.2	37
64	03	MED	.4748	3.3	23
65	03	MED			
		EPISTAXIS	.4818	3.3	24
66	03	MED	.8787	4.2	33
67	03	MED	.7294	5.0	33
68	03	MED	.5189	3.9	23
69	03	MED	.5389	3.2	33
70	03	MED			

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				RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
71	03	MED	LARYNGOTRACHEITIS	.8298	4.8	37
72	03	MED	NASAL TRAUMA & DEFORMITY	.5848	3.4	35
73	03	MED	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17	.7533	4.1	38
74	03	MED	* OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0-17	.3388	2.1	20
75	04	SURG	MAJOR CHEST PROCEDURES	3.0000	11.5	44
76	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W/ CC	2.3758	10.8	43
77	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.0388	4.5	37
78	04	MED	PULMONARY EMBOLISM	1.4339	8.7	41
79	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 WITH CC	1.7847	9.2	41
80	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC	1.0097	6.7	39
81	04	MED	* RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0-17	1.0899	8.1	35
82	04	MED	RESPIRATORY NEOPLASMS	1.2481	6.7	39
83	04	MED	MAJOR CHEST TRAUMA WITH CC	.9544	6.2	38
84	04	MED	MAJOR CHEST TRAUMA W/O CC	.4854	3.7	32
85	04	MED	PLEURAL EFFUSION WITH CC	1.1883	6.8	39
86	04	MED	PLEURAL EFFUSION W/O CC	.8839	4.3	38
87	04	MED	PULMONARY EDEMA & RESPIRATORY FAILURE	1.3919	6.0	38
88	04	MED	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	.9982	5.9	38
89	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 WITH CC	1.1719	7.1	39
90	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	.7318	5.4	30
91	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE 0-17	.7903	4.1	38
92	04	MED	INTERSTITIAL LUNG DISEASE WITH CC	1.2034	6.9	39
93	04	MED	INTERSTITIAL LUNG DISEASE W/O CC	.8021	5.2	37
94	04	MED	PNEUMOTHORAX WITH CC	1.2494	7.1	38
95	04	MED	PNEUMOTHORAX W/O CC	.6148	4.4	35
96	04	MED	BRONCHITIS & ASTHMA AGE >17 WITH CC	.9505	5.9	35
97	04	MED	BRONCHITIS & ASTHMA AGE >17 W/O CC	.8488	4.6	28
98	04	MED	BRONCHITIS & ASTHMA AGE 0-17	.7484	5.2	37
99	04	MED	RESPIRATORY SIGNS & SYMPTOMS WITH CC	.7980	4.1	38
100	04	MED	RESPIRATORY SIGNS & SYMPTOMS W/O CC	.4991	2.8	17
101	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES WITH CC	.8252	5.1	37
102	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	.5300	3.3	30
103	05	SURG	HEART TRANSPLANT	12.2183	23.8	58
104	05	SURG	CARDIAC VALVE PROCEDURES W/ CARDIAC CATH	8.2071	18.1	50
105	05	SURG	CARDIAC VALVE PROCEDURES W/O CARDIAC CATH	6.1312	12.7	45

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
106	05	SURG			
107	05	SURG	5.4368	13.6	48
108	05	SURG	4.9325	11.3	43
109	05	SURG	5.9278	12.7	45
110	05	SURG	.0000	.0	0
		MAJOR CARDIOVASCULAR PROCEDURES WITH CC	4.2563	10.3	42
111	05	SURG			
112	05	SURG	2.4009	7.5	40
113	05	SURG	2.0129	4.8	37
114	05	SURG	2.8816	14.2	48
115	05	SURG	1.5571	9.0	41
		UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS	3.6897	11.9	44
		PERM CARDIAC PACEMAKER IMPLANT W/AMI, HEART FAILURE OR SHOCK			
116	05	SURG	2.5029	5.7	38
117	05	SURG	1.2714	3.7	38
118	05	SURG	1.8977	2.8	35
119	05	SURG	.8411	3.5	38
120	05	SURG	2.0683	7.4	39
		OTHER CIRCULATORY SYSTEM O.R. PROCEDURES			
121	05	MED	1.8288	8.2	40
122	05	MED	1.1714	6.0	38
123	05	MED	1.3957	3.0	35
124	05	MED	1.1979	4.2	38
125	05	MED	.7389	2.2	22
		CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG			
126	05	MED	2.8809	16.3	48
127	05	MED	1.0085	6.0	38
128	05	MED	.7941	7.4	33
129	05	MED	1.2800	2.4	34
130	05	MED	.9158	6.1	38
		PERIPHERAL VASCULAR DISORDERS WITH CC			
131	05	MED	.5917	4.8	37
132	05	MED	.7282	4.0	36
133	05	MED	.5334	3.0	28
134	05	MED	.5874	3.9	30
135	05	MED	.8770	4.9	37
		CARDIAC CONGENITAL & VALVULAR DISORDERS AGE > 17 WITH CC			
136	05	MED	.5472	3.2	28
137	05	MED	.8238	3.3	32
138	05	MED	.8232	4.5	36
139	05	MED	.5153	3.1	23
140	05	MED	.8258	3.7	25
		ANGINA PECTORIS			

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		RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
141	05 MED	.8959	4.3	35
142	05 MED	.5018	3.1	22
143	05 MED	.5138	2.8	18
144	05 MED	1.0897	5.2	37
145	05 MED	.8470	3.4	34
	SYNCOPE & COLLAPSE WITH CC			
	SYNCOPE & COLLAPSE W/O CC			
	CHEST PAIN			
	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC			
	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC			
146	06 SURG	2.5742	12.4	44
147	06 SURG	1.8354	9.0	35
148	06 SURG	3.1749	13.5	45
149	06 SURG	1.5462	8.9	29
150	06 SURG	2.5108	11.4	43
	RECTAL RESECTION WITH CC			
	RECTAL RESECTION W/O CC			
	MAJOR SMALL & LARGE BOWEL PROCEDURES WITH CC			
	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC			
	PERITONEAL ADHESIOLYSIS WITH CC			
151	06 SURG	1.2024	8.7	39
152	06 SURG	1.7292	8.7	41
153	06 SURG	1.0357	6.7	28
154	06 SURG	4.1585	14.3	48
155	06 SURG	1.5488	7.7	40
	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE > 17 WITH CC			
	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE > 17 W/O CC			
156	06 SURG	.8281	8.0	35
157	06 SURG	.9425	4.6	37
158	06 SURG	.4924	2.5	18
159	06 SURG	1.0740	4.9	37
160	06 SURG	.6167	2.9	20
	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0-17			
	ANAL & STOMAL PROCEDURES WITH CC			
	ANAL & STOMAL PROCEDURES W/O CC			
	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE > 17 WITH CC			
	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE > 17 W/O CC			
161	06 SURG	.7392	3.2	34
162	06 SURG	.4490	1.8	11
163	06 SURG	.8751	4.0	35
164	06 SURG	2.1733	9.8	42
165	06 SURG	1.2595	8.9	25
	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG WITH CC			
	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC			
166	06 SURG	1.2980	6.1	35
167	06 SURG	.7821	4.0	15
168	03 SURG	1.0604	3.8	38
169	03 SURG	.5439	2.0	17
170	06 SURG	2.7486	11.1	43
	MOUTH PROCEDURES WITH CC			
	MOUTH PROCEDURES W/O CC			
	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES WITH CC			
171	06 SURG	1.1431	5.3	37
172	06 MED	1.2535	7.0	39
173	06 MED	.8219	3.8	38
174	06 MED	.9738	5.4	37
175	06 MED	.5704	3.8	23
	DIGESTIVE MALIGNANCY WITH CC			
	DIGESTIVE MALIGNANCY W/O CC			
	G.I. HEMORRHAGE WITH CC			
	G.I. HEMORRHAGE W/O CC			

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		RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
174	06 MED	1.0228	5.9	38
177	06 MED	.7823	5.1	32
178	06 MED	.5855	3.8	22
179	06 MED	1.1157	7.1	39
180	06 MED	.9222	5.8	38
	G. I. OBSTRUCTION WITH CC			
181	06 MED	.4990	3.8	25
182	06 MED	.7619	4.9	37
183	06 MED	.5207	3.5	25
184	06 MED	.5128	2.7	18
185	03 MED	.7857	4.4	36
	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17			
186	03 MED	.4062	2.9	23
187	03 MED	.5159	2.3	28
188	06 MED	.9840	5.2	37
189	06 MED	.4881	2.8	30
190	06 MED	.7522	4.2	36
	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0-17			
191	07 SURG	4.3870	15.4	47
192	07 SURG	1.7289	8.5	40
193	07 SURG	3.0112	13.9	48
194	07 SURG	1.8108	8.7	41
195	07 SURG	2.2105	10.6	43
	PANCREAS, LIVER & SHUNT PROCEDURES WITH CC.			
196	07 SURG	1.3578	7.8	28
197	07 SURG	1.8883	7.8	40
198	07 SURG	.9084	4.5	25
199	07 SURG	2.3895	11.8	44
200	07 SURG	2.7731	9.4	41
	CHOLECYSTECTOMY W C.D.E. W/O CC			
201	07 SURG	2.2911	8.8	41
202	07 MED	1.2283	7.2	39
203	07 MED	1.1803	8.8	39
204	07 MED	1.0897	6.1	38
205	07 MED	1.2355	6.7	38
	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES			
206	07 MED	.8003	3.7	38
207	07 MED	.9754	5.5	37
208	07 MED	.5526	3.3	26
209	08 SURG	2.3884	10.1	38
210	08 SURG	1.8494	11.4	43

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						RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
211	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC			1.3851	9.0	36
212	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0-17			.9803	4.5	37
213	08	SURG	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS			1.7463	9.4	41
214	08	SURG	BACK & NECK PROCEDURES WITH CC			1.8821	8.9	41
215	08	SURG	BACK & NECK PROCEDURES W/O CC			1.1145	5.8	32
216	08	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE			1.9244	9.3	41
217	08	SURG	WIND DEBRID & SKN GRFT EXCEPT HAND, FOR MUSCULOSKELETAL & CONN TISS DIS			3.1256	14.0	46
218	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 WITH CC			1.4137	7.2	39
219	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W/O CC			.9054	4.6	28
220	08	SURG	* LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE 0-17			9130	5.3	34
221	08	SURG	KNEE PROCEDURES WITH CC			1.8483	7.6	40
222	08	SURG	KNEE PROCEDURES W/O CC			.9638	3.8	36
223	08	SURG	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC			.8054	3.3	25
224	08	SURG	SHOULDER, ELBOW OR FOREARM PROC, EXC MAJOR JOINT PROC, W/O CC			.6322	2.5	15
225	08	SURG	FOOT PROCEDURES			.7882	3.3	35
226	08	SURG	SOFT TISSUE PROCEDURES WITH CC			1.3604	6.0	38
227	08	SURG	SOFT TISSUE PROCEDURES W/O CC			.6807	2.8	25
228	08	SURG	MAJOR THUMB OR JOINT PROC, OR OTH HAND OR WRIST PROC W CC			.8024	2.8	28
229	08	SURG	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC			.5402	1.9	18
230	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR			.9348	4.1	38
231	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR			1.0800	4.0	38
232	08	SURG	ARTHROSCOPY			1.2480	4.0	38
233	08	SURG	OTHER MUSCULOSKELETAL SYS & CONN TISS O.R. PROC WITH CC			1.9754	9.0	41
234	08	SURG	OTHER MUSCULOSKELETAL SYS & CONN TISS O.R. PROC W/O CC			1.0341	4.6	37
235	08	MED	FRACTURES OF FEMUR			1.0962	7.4	39
236	08	MED	FRACTURES OF HIP & PELVIS			.8420	6.6	39
237	08	MED	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH			.5803	4.4	38
238	08	MED	OSTEOMYELITIS			1.5808	10.6	43
239	08	MED	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY			1.0271	7.5	40
240	08	MED	CONNECTIVE TISSUE DISORDERS WITH CC			1.1489	7.1	39
241	08	MED	CONNECTIVE TISSUE DISORDERS W/O CC			.5898	4.4	38
242	08	MED	SEPTIC ARTHRITIS			1.2543	8.2	40
243	08	MED	MEDICAL BACK PROBLEMS			.6897	5.0	37
244	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES WITH CC			.7875	5.5	37
245	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC			.5431	4.0	36

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TABLE 5

LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER CUTOFF POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
246	08	MED			
247	08	MED	.5869	4.4	36
248	08	MED	.5467	3.6	36
249	08	MED	.6698	4.6	37
250	08	MED	.7178	4.3	36
251	08	MED	.7017	4.5	37
252	08	MED			
253	08	MED	.4297	2.5	24
254	08	MED	.3454	1.8	15
255	08	MED	.7811	5.8	38
256	08	MED	.4247	3.5	35
257	08	MED	.4582	2.9	32
258	08	MED			
259	09	SURG	.6398	3.8	36
260	09	SURG	.9045	4.6	24
261	09	SURG	.7078	3.8	15
262	09	SURG	.9044	4.0	36
263	09	SURG	.5715	2.4	14
264	09	SURG			
265	09	SURG	.6722	2.2	15
266	09	SURG	.4911	1.8	18
267	09	SURG	2.8650	15.1	47
268	09	SURG	1.2801	8.5	40
269	09	SURG	1.3805	6.1	38
270	09	SURG			
271	09	MED	.6821	3.0	35
272	09	MED	.5953	2.7	35
273	09	MED	.7138	2.5	34
274	09	MED	1.8528	8.0	40
275	09	MED	.8537	2.9	35
276	09	MED	1.2458	8.8	41
277	09	MED	1.0789	7.3	39
278	09	MED	.6726	5.5	38
279	09	MED	1.1340	6.6	39
280	09	MED	.5829	3.2	35
			.5783	3.8	36
			.9201	7.0	39
			.6178	5.3	30
			.7278	4.2	24
			.8638	4.6	37

* MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM MARYLAND AND MICHIGAN FOR LOW VOLUME DRGS.

** DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
281	09	MED			
282	09	MED	.4188	3.1	30
283	09	MED	.3383	2.2	19
284	09	MED	.7317	5.2	37
285	10	MED	.4401	3.5	34
		SURG	2.6867	15.0	47
286	10	SURG	2.4248	9.5	41
287	10	SURG	2.2488	13.4	45
288	10	SURG	2.0003	7.1	39
289	10	SURG	1.0083	4.0	38
290	10	SURG	.7500	2.8	17
291	10	SURG	.4430	1.7	8
292	10	SURG	2.8130	12.0	44
293	10	SURG	1.1455	5.5	37
294	10	MED	.7531	5.8	38
295	10	MED	.7488	4.4	38
298	10	MED	.9389	8.0	38
297	10	MED	.5311	4.0	31
298	10	MED	.5477	2.8	31
299	10	MED	.8574	4.8	37
300	10	MED	1.1238	8.9	39
301	10	MED	.5898	4.1	36
302	11	SURG	3.8312	13.8	48
303	11	SURG	2.6851	11.4	43
304	11	SURG	2.3712	10.0	42
305	11	SURG	1.1878	5.3	37
306	11	SURG	1.2858	8.9	38
307	11	SURG	.7138	4.0	23
308	11	SURG	1.4382	8.4	38
309	11	SURG	.7380	3.2	31
310	11	SURG	.8797	3.9	38
311	11	SURG	.5138	2.3	16
312	11	SURG	.8190	3.8	38
313	11	SURG	.4818	2.1	17
314	11	SURG	.4271	2.3	26
315	11	SURG	2.0984	7.0	39

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** DRGS 489 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.

NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR OUTLIER AND TRANSFER CASES.

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
316	11	MED	1.2808	8.3	38
317	11	MED	.4827	2.5	32
318	11	MED	1.0977	8.0	38
319	11	MED	.5479	2.6	32
320	11	MED	1.0014	6.7	39
321	11	MED	.8371	4.9	28
322	11	MED	.8296	4.6	35
323	11	MED	.7118	2.9	31
324	11	MED	.3947	2.1	14
325	11	MED	.8879	4.3	36
326	11	MED	.4218	2.9	25
327	11	MED	.5444	3.1	32
328	11	MED	.8170	3.8	38
329	11	MED	.3978	2.1	18
330	11	MED	.2754	1.8	.9
331	11	MED	.9533	5.3	37
332	11	MED	.5310	3.0	35
333	11	MED	.8728	4.7	37
334	12	SURG	1.7585	8.9	32
335	12	SURG	1.3801	7.4	21
336	12	SURG	.9029	5.0	28
337	12	SURG	.8187	3.7	13
338	12	SURG	.7784	2.9	35
339	12	SURG	.6423	2.5	35
340	12	SURG	.4283	2.4	13
341	12	SURG	.9859	3.3	25
342	12	SURG	.5942	2.5	34
343	12	SURG	.3742	1.7	6
344	12	SURG	1.0482	4.4	36
345	12	SURG	.7330	3.3	35
346	12	MED	.9815	5.8	38
347	12	MED	.4998	2.6	35
348	12	MED	.6888	3.9	36
349	12	MED	.4023	2.3	20
350	12	MED	.6761	4.9	28

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
351	12	MED	.3293	1.3	5
352	12	MED	.5825	3.3	35
353	13	SURG	2.0537	10.1	42
354	13	SURG	1.3884	7.2	33
355	13	SURG	.8801	5.0	13
356	13	SURG	.7119	4.1	17
357	13	SURG	2.2188	10.2	42
358	13	SURG	1.1143	6.0	23
359	13	SURG	.7859	4.6	12
360	13	SURG	.7788	4.1	30
361	13	SURG	.8484	3.3	35
362	13	SURG	.4921	1.4	5
363	13	SURG	.6398	3.1	27
364	13	SURG	.5299	2.5	28
365	13	SURG	1.6777	7.4	39
366	13	MED	1.1830	6.6	39
367	13	MED	.4943	2.9	35
368	13	MED	.9284	6.0	38
369	13	MED	.5338	3.3	35
370	14	SURG	1.0350	5.8	37
371	14	SURG	.8528	4.1	11
372	14	MED	.5408	3.3	33
373	14	MED	.3135	2.1	8
374	14	SURG	.5187	2.5	9
375	14	SURG	.6735	4.4	29
376	14	MED	.3751	2.4	22
377	14	SURG	.8539	2.8	35
378	14	MED	.7592	3.9	14
379	14	MED	.2818	2.1	15
380	14	MED	.2775	1.4	10
381	14	SURG	.3792	1.8	10
382	14	MED	.1304	1.2	5
383	14	MED	.3860	3.2	30
384	14	MED	.2938	2.2	22
385	15	MED	1.2084	1.8	31

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
386	15	MED	* EXTREME IMMATUREITY OR RESPIRATORY DISTRESS SYNDROME, NEONATE	17.9	47
387	15	MED	* PREMATUREITY W MAJOR PROBLEMS	13.3	42
388	15	MED	* FULL TERM NEONATE W MAJOR PROBLEMS	8.6	38
389	15	MED	NEONATE W OTHER SIGNIFICANT PROBLEMS	6.5	38
390	15	MED		4.5	37
391	15	MED	* NORMAL NEWBORN	3.1	11
392	16	SURG	SPLENECTOMY AGE >17	11.6	44
393	16	SURG	* SPLENECTOMY AGE 0-17	9.1	38
394	16	SURG	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS	5.7	38
395	16	MED	RED BLOOD CELL DISORDERS AGE >17	4.8	37
396	16	MED	RED BLOOD CELL DISORDERS AGE 0-17	2.4	34
397	16	MED	COAGULATION DISORDERS	5.5	37
398	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS WITH CC	6.8	39
399	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	4.0	38
400	17	SURG	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	9.4	41
401	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC	10.3	42
402	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC	3.8	38
403	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	8.1	40
404	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	3.9	38
405	17	MED	* ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0-17	4.9	34
406	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC	10.8	43
407	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC	5.3	37
408	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC	4.2	38
409	17	MED	RADIOOTHERAPY	6.4	38
410	17	MED	CHEMOTHERAPY WITHOUT ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS	2.8	19
411	17	MED	HISTORY OF MALIGNANCY W/O ENDOSCOPY	2.5	31
412	17	MED	HISTORY OF MALIGNANCY W ENDOSCOPY	2.1	21
413	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG WITH CC	7.5	39
414	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC	4.3	38
415	18	SURG	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	14.8	47
416	18	MED	SEPTICEMIA AGE >17	7.5	40
417	18	MED	SEPTICEMIA AGE 0-17	5.0	37
418	18	MED	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	6.5	39
419	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 WITH CC	5.8	38
420	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	4.5	30

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421	18 MED	VITAL ILLNESS AGE >17	.8673	4.4	32
422	18 MED	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0-17	.5928	4.0	33
423	18 MED	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.6176	8.1	40
424	19 SURG	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS	2.3480	12.5	45
425	19 MED	ACUTE ADJUST REACT & DISTURBANCES OF PSYCHOSOCIAL DYSFUNCTION	.7118	4.7	37
426	19 MED	DEPRESSIVE NEUROSES	.6222	5.5	37
427	19 MED	NEUROSES EXCEPT DEPRESSIVE	.8058	5.2	37
428	19 MED	DISORDERS OF PERSONALITY & IMPULSE CONTROL	.7801	6.7	38
429	19 MED	ORGANIC DISTURBANCES & MENTAL RETARDATION	.9325	7.6	40
430	19 MED	PSYCHOSES	.8074	8.8	41
431	19 MED	CHILDHOOD MENTAL DISORDERS	.7391	8.1	38
432	19 MED	OTHER MENTAL DISORDER DIAGNOSES	.7015	4.3	36
433	20 MED	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	.3774	3.1	35
434	20 MED	ALC/DRUG ABUSE OR DEPENDENCE, DETOX OR OTHER SYMPT TRT WITH CC	.7702	5.6	38
435	20 MED	ALC/DRUG ABUSE OR DEPENDENCE, DETOX OR OTHER SYMPT TRT W/O CC	.5154	4.8	37
436	20 MED	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	1.0803	16.6	48
437	20 MED	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY	1.1838	15.1	47
438	21 SURG	NO LONGER VALID	.0000	.0	0
439	21 SURG	SKIN GRAFTS FOR INJURIES	1.4834	8.4	38
440	21 SURG	WOUND DEBRIDEMENTS FOR INJURIES	1.8270	8.4	40
441	21 SURG	HAND PROCEDURES FOR INJURIES	.6913	2.4	28
442	21 SURG	OTHER O.R. PROCEDURES FOR INJURIES WITH CC	1.9320	6.2	38
443	21 SURG	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	.7578	2.7	32
444	21 MED	TRAUMATIC INJURY AGE > 17 W CC	.7537	5.2	37
445	21 MED	TRAUMATIC INJURY AGE > 17 W/O CC	.4897	3.6	30
446	21 MED	* TRAUMATIC INJURY AGE 0-17	.4738	2.4	22
447	21 MED	ALLERGIC REACTIONS AGE >17	.4802	2.6	24
448	21 MED	* ALLERGIC REACTIONS AGE 0-17	.3428	2.9	17
449	21 MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 WITH CC	.7874	4.2	36
450	21 MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	.4458	2.5	25
451	21 MED	* POISONING & TOXIC EFFECTS OF DRUGS AGE 0-17	.5126	2.1	17
452	21 MED	COMPLICATIONS OF TREATMENT WITH CC	.8130	4.2	36
453	21 MED	COMPLICATIONS OF TREATMENT W/O CC	.4178	2.8	25
454	21 MED	OTHER INJURY, POISONING & TOXIC EFF DIAG WITH CC	.9118	4.4	36
455	21 MED	OTHER INJURY, POISONING & TOXIC EFF DIAG W/O CC	.4210	2.5	25

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
456	22	MED	BURNS, TRANSFERRED TO ANOTHER ACUTE CARE FACILITY	5.7	38
457	22	MED	EXTENSIVE BURNS W/O O.R. PROCEDURE	2.0883	35
458	22	SURG	NON-EXTENSIVE BURNS W SKIN GRAFT	1.8726	48
459	22	SURG	NON-EXTENSIVE BURNS W WOUND DEBRIDEMENT OR OTHER O.R. PROC	4.0280	42
460	22	MED	NON-EXTENSIVE BURNS W/O O.R. PROCEDURE	1.9344	38
			1.0484	6.4	
461	23	SURG	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES	.8219	34
462	23	MED	REHABILITATION	1.8140	48
463	23	MED	SIGNS & SYMPTOMS W CC	.7319	37
464	23	MED	SIGNS & SYMPTOMS W/U CC	.4505	28
465	23	MED	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	.3871	18
466	23	MED	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS	.5754	35
467	23	MED	OTHER FACTORS INFLUENCING HEALTH STATUS	.4299	35
468			EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	3.4055	45
469		**	PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	.0000	0
470		**	UNGROUPABLE	.0000	0
471	08	SURG	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY	3.9537	45
472	22	SURG	EXTENSIVE BURNS W O.R. PROCEDURE	13.4433	54
473	17	MED	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	3.3130	42
474	04		NO LONGER VALID	.0000	0
475	04	MED	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT	3.8144	42
476			PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	14.3	46
477			NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS	1.4339	38
478	05	SURG	OTHER VASCULAR PROCEDURES W CC	2.2083	39
479	05	SURG	OTHER VASCULAR PROCEDURES W/O CC	1.3271	38
480			LIVER TRANSPLANT	24.4737	73
481			BONE MARROW TRANSPLANT	14.7402	89
482		SURG	TRACHEOSTOMY W MOUTH, LARYNX OR PHARYNX DISORDER	3.1871	45
483		SURG	TRACHEOSTOMY EXCEPT FOR MOUTH, LARYNX OR PHARYNX DISORDER	13.8015	71
484	24	SURG	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	8.1795	48
485	24	SURG	LIMB REATTACH., HIP AND FEMUR PROCS FOR MULTI SIGN TRAUMA	2.9320	45
486	24	SURG	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA	5.1850	43
487	24	MED	OTHER MULTIPLE SIGNIFICANT TRAUMA	1.7683	40
488	25	SURG	HIV W EXTENSIVE O.R. PROCEDURE	4.3075	49
489	25	MED	HIV W MAJOR RELATED CONDITION	1.8737	42
490	25	MED	HIV W OR W/O OTHER RELATED CONDITION	1.1984	38

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			RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD
491	08	SURG	1.5888	5.9	34
492	17	MED	2.5533	8.2	40

MAJOR JOINT & LIMB REATTACHMENT PROCEDURES - UPPER EXTREMITY
CHEMOTHERAPY WITH ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS

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BILLING CODE 4120-01-C

Addendum, Table 6A [Corrected]

5. On page 25261, in TABLE 6A, for diagnosis code 204.01, Acute lymphoid leukemia in remission, we incorrectly included DRG 401 in the DRG column. The correct entries in the DRG column are 400, 405, and 473.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: July 24, 1991.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 91-17989 Filed 7-29-91; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 594**

[Docket No. 89-8; Notice 5]

RIN 2127-AC98

Schedule of Fees Authorized by the National Traffic and Motor Vehicle Safety Act

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Imported Vehicle Safety Compliance Act of 1988 provides that the fees shall be reviewed, and, if appropriate, adjusted at least every 2 years. This notice proposes fees that would apply as of October 1, 1991, the beginning of Fiscal Year 1992.

The agency has tentatively determined that the fee for the registration should remain unchanged at \$255 for applications for registered importer status, and that the annual fee for renewal of such status should also remain at \$255.

The agency would also retain its present petition fee of \$100 for substantially similar determinations, and \$500 for others. Each vehicle imported under either determination would continue to be subject to a fee of \$83. Each vehicle imported under a determination made by NHTSA on its own initiative would remain subject to the existing fee of \$156.

The agency believes that its increasing familiarity with the petition procedures has allowed it to reduce the time required to handle each petition such that this increased efficiency offsets the increase in costs attributable to the annual GS schedule salary increases and other factors. Thus, maintenance of fees at the current level

would continue to allow recovery of costs associated with administration of these programs.

The fee required to reimburse the U.S. Customs Service for bond processing costs would increase by twenty cents to \$4.75 per bond.

DATES: The comment closing date for the proposal is August 29, 1991. The effective date of the final rule would be September 30, 1991.

ADDRESS: Comments should refer to the docket number and the notice number, and be submitted to: Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, (202-366-5263).

SUPPLEMENTARY INFORMATION:**Introduction**

On September 29, 1989, NHTSA adopted 49 CFR part 594, establishing the initial fees authorized by section 108 of the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, Public Law 100-562 (54 FR 40100; See this notice for a full description of the agency's methodology and rationale in its determination of costs). The final rule adopting fees for FY 1991 was published on October 4, 1990 (55 FR 40664), after publication of a proposal on August 31, 1990 (55 FR 35694).

Section 108(c)(3)(B) (15 U.S.C. 108(c)(3)(B)) of the Act provides that the amount or rate of fees shall be reviewed, and, if appropriate, adjusted at least every 2 years. Further, the fees applicable in any fiscal year shall be established before the beginning of such year. The statute authorizes an annual fee to cover the costs of administration of the importer registration program, an annual fee or fees to cover the costs of making import eligibility determinations, and an annual fee or fees to cover the costs of processing the bond furnished to the Customs Service.

The purpose of this notice is to propose appropriate fees for FY 1992, which begins October 1, 1991. With the exception of the bond processing fee, the agency has tentatively determined to retain the existing fees for the next fiscal year.

Requirements of the Fee Regulation**594.6 Annual Fee for administration of the importer registration program**

Section 108(c)(3)(A)(iii) of the Vehicle Safety Act provides that registered importers must pay "such annual fee as

the Secretary establishes to cover the cost of administering the registration program. * * * The annual fee attributable to the registration program is payable both by new applicants and by registered importers seeking to renew their registrations. The reader is referred to the notices of August 31, 1990, and September 29, 1989, for a fuller discussion of the fee and its components.

The initial component of the Registration Program Fee is the portion of the fee attributable to processing and acting upon registration applications. The agency estimates that this portion of the fee will be \$86, and identical for both new applications and renewals.

Other costs attributable to maintenance of the registration program arise from reviewing a registrant's annual statement, and verifying the continuing validity of information already submitted. These costs also include costs attributable to revocation or suspension of a registration.

There has been a slight increase in hourly costs in FY 1991, attributable to the 4.2% raise in salaries of employees on the General Schedule that became effective January 1, 1991. Moreover, as both registered importers and NHTSA personnel have become increasingly familiar with the petition process, each individual petition has required less of the agency's time. NHTSA believes that the slight increase in costs has been offset by the lesser amount of time required to administer the registration program.

The total portion attributable to maintenance of the registration program, as estimated by NHTSA, is approximately \$169. When added to the \$86 representing the registration application (or annual renewal) component, the cost per applicant or renewal equals \$255. Therefore, NHTSA has tentatively determined that the annual registration fee, for the period October 1, 1991 through September 30, 1992, should remain at \$255. In the event that an application is denied or withdrawn, NHTSA would refund all but \$86 of this amount, \$169.

594.7, 594.8 Fees to cover agency costs in making important eligibility determination

Section 108(c)(3)(A)(iii)(II) also requires Registered Importers to pay "such other annual fee or fees as the Secretary reasonably establishes to cover the cost of . . . making the determinations under this section." Pursuant to Part 593, these determinations are whether the vehicle sought to be imported is substantially

similar to a motor vehicle originally manufactured for importation into and sale in the United States, and certified as meeting the Federal standards, and whether it is capable of being readily modified to meet those standards, or, alternatively, where there is no substantially similar U.S. motor vehicle, whether the safety features of the vehicle comply with or are capable of being modified to comply with the U.S. standards. These determinations are made pursuant to petition submitted by Registered Importers or manufacturers, or pursuant to determinations made upon the Administrator's initiative. Because a substantially different procedure was adopted for the second year of this program, FY 1991, and reader is referred to the August 31, 1990 notice for a fuller discussion of the cost factors of such determinations.

For FY 1991, NHTSA adopted a restructuring of its fee schedule. The cost basis previously adopted remained at \$1,560 for substantially similar determinations, and at \$2,150 for others. Under the restructuring, the fee for a vehicle imported under a determination made on the agency's initiative is payable by the importer of any vehicle covered by any determination made on the agency's initiative. The fee for a vehicle imported under a determination pursuant to a petition is payable in part by the petitioner and in part by importers. However, the fee to be charged for a vehicle is a pro rata share of the costs in making all the eligibility determinations in the fiscal year.

The fees that NHTSA adopted were based upon its best estimates of the number of petitions that would be filed, and the number of vehicles that would be imported pursuant to determinations of eligibility made upon granting those petitions (see 55 FR 40664). However, the period covered by the estimates was the entire fiscal year of 1991. Because FY 1991 will not end until September 30, 1991, NHTSA will not be able to determine the degree of accuracy of its estimates. In the absence of final FY 1991 figures, NHTSA believes that it is not appropriate to base fees for FY 1992 upon available data, which may change as FY 1991 progresses. Therefore, NHTSA has tentatively determined that it should retain the existing fee structure for another fiscal year. During FY 1992, NHTSA will compare the accuracy of its estimates with the complete data from FY 1991, so as to formulate a basis upon which to propose appropriate fees for FY 1993.

In § 594.7(f), NHTSA specifies that it uses a year of July 1-June 30 as the basis of its calculations for petition filing fees

for the next fiscal year. This basis for this specification was the necessity and time required to prepare and publish proposed fees, to allow a sufficient amount of time to comment upon them, and to prepare and issue a final rule not later than September 30. However, experience has demonstrated that three months (July 1 to September 30) is an inadequate time to collate data, to prepare a notice of proposed rulemaking and obtain clearances, to publish the proposal and allow the preferred 45 days for comment on the proposal, to review the comments, to prepare a final rule and obtain clearances, and to issue it not later than September 30. NHTSA will review § 594.7(f) in the forthcoming year together with the final vehicle importation and petition numbers from FY 1991.

594.9 Fee to recover the costs of processing the bond

Section 108 (c)(3)(A)(iii)(II) also requires a registered importer to pay "such annual fee or fees as the Secretary reasonably establishes to cover the cost of processing the Bond furnished to the Secretary of the Treasury" upon the importation of a nonconforming vehicle to ensure that the vehicle will be brought into compliance within a reasonable time, or if the vehicle is not brought into compliance within such time, that it is exported without cost of the United States, or abandoned to the United States.

The statute contemplates that NHTSA make a reasonable determination of the cost to the United States Customs Service of processing the bond. In essence, the cost to Customs is based upon the time that a GS 9 Step 5 employee is estimated to spend on each petition, which was judged to be 20 minutes. For a fuller discussion of these costs, the reader is again referred to the notices of August 31, 1990, and September 29, 1989.

Because of the 4.2% salary raise in the General Schedule that was effective January 1, 1991, NHTSA proposes that the current processing fee be increased by twenty cents, to \$4.75, for FY 1992.

Rulemaking Analyses

A. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

After considering the impacts of this rulemaking action, NHTSA has determined that the action is not major within the meaning of Executive Order 12291 "Federal Regulation". It further implements Public Law 100-562 under which fees may be established to cover the costs of administering the program

for registration of importers of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards, of determinations that nonconforming vehicles are capable of conformity to the standards, and of reimbursing or advancing the U.S. Customs Service its costs in processing safety standards conformance bonds. It is not significant under Department of Transportation regulatory policies and procedures. The action does not involve any substantial public interest or controversy. There is no substantial effect upon state and local governments. There is no substantial impact upon a major transportation safety program. Both the number of registered importers and determinations are estimated to be comparatively small, and the number of vehicles to be imported by or through such importers from October 1, 1991 through September 30, 1992, is estimated to be 600. Nevertheless, a regulatory evaluation analyzing the economic impact of the final rule adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. I certify that this action would not have a significant economic impact upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles are small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that a substantial number of these companies could not pay the fees proposed by this action. The cost to owners or purchasers of modifying nonconforming vehicles to conform with the safety standards may be expected to increase to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of administering the registration program and making eligibility determinations, and to compensate Customs for its bond processing costs. Governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 12612 (Federalism)

The agency has analyzed the action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action would not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers would not vary significantly from that existing before promulgation of the action.

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

PART 594—[AMENDED]

In consideration of the foregoing, 49 CFR part 594 would be amended as follows:

1. The authority citation for part 594 would continue to read as follows:

Authority: Pub. L. 100-562, 15 U.S.C. 1401, 1407; delegation of authority at 49 CFR 1.50.

2. In § 594.6, paragraphs (a), (b), (d), (h) and (i), and paragraph (e) of § 594.7, "October 1, 1990" would be replaced by "October 1, 1991" wherever it appears and "September 30, 1991" would be replaced by "September 30, 1992" wherever it appears.

3. Section 594.9(c) would be revised to read:

§ 594.9 Fee for reimbursement of bond processing costs.

* * * * *

(c) The bond processing fee for each vehicle imported from October 1, 1991, through September 30, 1992, for which a certificate of conformity is furnished, is \$4.75.

Issued on July 24, 1991.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 91-17957 Filed 7-29-91; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register

Vol. 56, No. 146

Tuesday, July 30, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

United States Origin Requirement for Nonagricultural Ingredients

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public that the Commodity Credit Corporation (CCC) intends to implement new contractual requirements in the procurement of agricultural commodities for the title II, Public Law 480 program.

DATES: In order to be assured of consideration, comments regarding this notice must be received by August 29, 1991.

ADDRESSES: Comments should be sent to the Director, Commodity Operations Division, USDA-ASCS, P.O. Box 2415, room 5755-S, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Ronald L. Wilson (202) 447-3995.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public of certain new contractual requirements which CCC intends to adopt effective with all contracts entered into on and after October 1, 1991, for the procurement of agricultural commodities for the Agricultural Trade Development and Assistance Act of 1954, title II program (Pub. L. 480).

Section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990 amended Public Law 480 in its entirety. The term "agricultural commodity", as defined in section 402(2) of Public Law 480, includes "any agricultural commodity or the products thereof produced in the United States * * *". Section 402(2) further provides that:

Effective beginning on October 1, 1991, for purposes of title II, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not

produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

CCC intends to administer this requirement in the following manner:

Except as specified below, CCC will require its commodity suppliers (contractors) to certify to CCC that the nonagricultural ingredients contained in an agricultural product are of domestic origin. An "ingredient" will be considered as any nonagricultural component of the agricultural end product that CCC is procuring. For example, such components include, but are not limited to, vitamin and mineral enrichments which CCC requires to be added to the end product.

CCC will consider exempting any particular ingredient from the general domestic origin requirement when the contractor or ingredient supplier submits a written statement to the Director, Kansas City Commodity Office, USDA-ASCS, 8930 Ward Parkway, Kansas City, Missouri 64141, accompanied by any supporting evidence such submitter deems appropriate, that either:

1. The ingredient is not produced in the United States, or
2. The ingredient is not commercially available in the United States at fair and reasonable prices.

Upon receipt of such statement, CCC will promptly notify other interested parties of an opportunity to review the evidence submitted in support of the above statement and to present additional information which may have a bearing in CCC's determination. If CCC determines it to be necessary, such notice may be by publication in the *Federal Register*. Interested parties will have an opportunity to present their views verbally, or in writing, to the Director, Kansas City Commodity Office, who will issue a final determination on behalf of CCC as to whether to exempt a particular ingredient from the general domestic origin requirement.

If CCC determines that a particular ingredient of an agricultural product is not produced in the United States, or is not commercially available in the United States at fair and reasonable prices, CCC will amend its purchase announcements to permit the use of either domestic or foreign source ingredients. Any such determination will remain in place for twelve (12) months,

or such other period of time as the Director, Kansas City Commodity Office, determines appropriate, from the time CCC's purchase announcements are amended, to reflect the current conditions resulting in the determination.

In reaching its decision on requests to exempt any particular ingredient from the general domestic origin requirement, CCC will review available evidence on factors such as domestic production, private and Government demand, and prior historical price data. Also, when determining whether an ingredient is commercially available at fair and reasonable prices, CCC will give consideration to the amount by which the offered price of the ingredient exceeds the price of like foreign source ingredients, inclusive of duty. In evaluating this factor, CCC will consider the principle used for evaluating domestic end products as stated in the Federal Acquisition Regulation (48 CFR 25.105). In general, this provision states that the offered price of a domestic product may be considered unreasonable if the lowest acceptable domestic offer exceeds the lowest acceptable foreign offer, inclusive of duty, by more than 6 percent.

Signed at Washington, DC on July 25, 1991.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91-17967 Filed 7-29-91; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Cottonwood and Golf Timber Sales, Sequoia National Forest Kern County, CA., Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to harvest and regenerate timber on the Cottonwood and Golf Timber Sales within the Greenhorn Ranger District. The Sequoia National Forest Land and Resource Management Plan has been prepared. One of the management emphases in the Plan is to manage for timber harvest and production on lands within the Breckenridge Compartment.

The alternatives to be considered will range from "no action" to harvesting up to approximately 12 million board feet.

The quantity of timber cut, road construction and reconstruction, as well as the physical, biological, economic, and social effects of project implementation will be analyzed within the context of the alternatives. Potential resource issues which may affect alternative development are condor habitat, clearcutting, visual quality, water quality, spotted owl habitat, maintaining biodiversity, reforestation, and furbearer habitat.

The California Department of Fish and Game and the U.S. Fish and Wildlife Service will be invited to participate as cooperating agencies to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the proposed timber sale areas. Federal, State, and local agencies, as well as industry; and other individuals or organizations who may be interested in or affected by the decision, will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues and/or concerns.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

Scoping was initiated during the spring of 1990, and continued into the spring of 1991.

The analysis is expected to take approximately 9 months to complete. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review and comment by September 1991. EPA will publish a notice of availability for the draft EIS in the *Federal Register*. The comment period will be 45 days from the date of the EPA's published notice of availability. All persons interested in the proposed projects are urged to participate at that time. Comments on the draft EIS should be as specific as possible and may address the adequacy of the EIS or the merits of the alternatives considered. In addition, Federal court decisions have established that reviewers of a draft EIS must structure their participation in the environmental review so that it is meaningful and alerts an agency to the reviewer's positions and contentions. Environmental objections that could have been raised at the draft EIS review stage may be waived if not raised until after completion of the final EIS. The reason for this is to ensure that substantive comments and objections are made available to the Forest Service in a timely manner so that the agency can respond to them in the final EIS.

The final EIS is scheduled to be completed by November 1991. In the final EIS, the Forest Service is required to respond to comments received from the public and consulted agencies. The responsible official will consider the comments, responses, laws, regulations, and policies in making a decision regarding these project proposals. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal.

Philip H. Bayles, Acting Forest Supervisor, Sequoia National Forest, Porterville, CA, is the responsible official. Written comments, questions, and suggestions concerning the analysis should be sent to Linda Brett, District Ranger, Greenhorn Ranger District, P.O. Box 6129, Bakersfield, California 93386 (phone 805-871-2223).

Dated: July 20, 1991.

Philip H. Bayles,

Forest Supervisor.

[FR Doc. 91-17980 Filed 7-29-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of Public Scoping Meetings Regarding a National Marine Sanctuary in the Waters Adjacent to Kahoolawe Island, HI

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public scoping meetings.

SUMMARY: In October 1990, the 101st U.S. Congress directed the National Oceanic and Atmospheric Administration (NOAA) to conduct a study of the feasibility of establishing a national marine sanctuary in the marine environment adjacent to Kahoolawe Island, Hawaii (Pub. L. 101-515). In conducting the study, NOAA was instructed to give special consideration to the effects of such a sanctuary on the humpback whale populations that inhabit the waters off Kahoolawe Island. At this stage, NOAA is not proposing any site, or sites, in Hawaiian waters for national marine sanctuary designation. The feasibility study, which is to be transmitted to the Congress by December 1, 1991, will contain NOAA's recommendation for further action.

NOAA will conduct seven public scoping meetings in Hawaii between August 20 and August 29, 1991, and one meeting in Washington, DC, on September 5, 1991, to solicit public comments regarding the identification, distribution and status of the natural, cultural, historical and archeological resources in the marine environment of the Hawaiian Islands, and in particular Kahoolawe. Information pertaining to boundary alternatives, management alternatives, existing resource protection and management regimes, research and interpretive opportunities, as well as the identification of additional public concerns will also be sought. This information will be used to evaluate the marine resources adjacent to Kahoolawe Island for national marine sanctuary status. Individuals and representatives of concerned organizations and government agencies, including native Hawaiian interests, are invited and encouraged to attend. NOAA also encourages the submission of written comments, prior to September 15, 1991, to the individuals identified below.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Uravitch, Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue NW., suite 714, Washington, DC 20235, (202/606-4126) or Christopher Evans, NOAA Hawaii Liaison, c/o Office of State Planning, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, (808/587-2834).

DATES AND LOCATIONS: NOAA's Sanctuaries and Reserves Division will hold the following public scoping meetings:

- August 20, 1991, at 7 p.m., in Hibiscus Ballroom #1 of the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, Oahu, Hawaii;
- August 22, 1991, at 6:30 p.m., at the Kaha-Kai Elementary School Cafeteria, 76-147 Royal Poinciana Drive, Kailua-Kona, Hawaii, Hawaii;
- August 23, 1991, at 1:30 p.m., at the State Office Building, 75 Aupini Street, Conference Room B, Hilo, Hawaii, Hawaii;
- August 26, 1991, at 6:30 p.m., at the Lahaina Civic Center/Social Hall, 1840 Honoapiilani Highway, Lahaina, Maui, Hawaii;
- August 27, 1991, at 6 p.m., at the Mitchell Pauole Meeting Hall, Kaunakakai, Molokai, Hawaii;

- August 28, 1991, at 6 p.m., at the Lanai Public and School Library, Lanai City, Lanai, Hawaii;

- August 29, 1991, at 6 p.m., at the Council Chambers, 4396 Rice Street, Lihue, Kauai, Hawaii; and

- September 5, 1991, at 1 p.m., at the Herbert C. Hoover Building, 14th and Constitution NW., room 1414, Washington, DC.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431 *et seq.*, (the "Act") authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries to protect their special conservation, recreational, ecological, historical, research, educational, or esthetic qualities. The Act is administered by the National Oceanic and Atmospheric Administration (NOAA) through the Office of Ocean and Coastal Resource Management (OCRM), Sanctuaries and Reserves Division (SRD).

In October 1990, the Congress directed NOAA to conduct a study of the feasibility of establishing a national marine sanctuary in the marine environment adjacent to Kahoolawe Island, Hawaii. Kahoolawe is the smallest of the eight main islands in the Hawaiian archipelago and is located approximately seven miles southwest of Maui. In the past Kahoolawe has served as a base for fishing and several ranching attempts, but now is sparsely inhabited with a limited military presence. From 1941 until 1990, the island was primarily used as a combat training and live ordnance target site for the U.S. military. These activities were halted in 1990 by Executive order, which placed a moratorium on all military uses on Kahoolawe until 1992. Because of the island's spiritual and archeological importance to native Hawaiian culture, as well as its potential economic and environmental value, the State of Hawaii is actively seeking the return of Kahoolawe to the State. In 1990, Congress passed legislation (Pub. L. 101-511) to establish a commission to study and recommend terms and conditions for the return and restoration of the island.

The waters adjacent to Kahoolawe Island represent a relatively pristine marine ecosystem that provides habitat for numerous marine species, including wintering populations of the humpback whale (*Megaptera novaeangliae*). The humpback whale was classified as an endangered species with the passage of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) in 1973 and remains so

today. Current estimates regarding the number of North Pacific humpback whales suggest that the population is less than 10% of the estimated 15,000 whales that existed prior to exploitation.

Humpback whales are one of the more easily recognized marine species in Hawaiian waters. They principally use the shallow waters within the 100-fathom (183-meter) isobath for breeding and calving purposes. The highest density of whales occurs between the months of February and April, primarily in State waters around the islands of Maui, Molokai, Lanai, and Kahoolawe; around Niihau Island; and along the northwestern coast of Hawaii Island from Keahole Point north to Upola Point. Lower densities are found around Kauai, Oahu, and the eastern and southwestern coast of Hawaii Island. Few humpback whales have been reported around the atolls, islands, banks and reefs of the Northwestern Hawaiian Islands.

In December 1977, NOAA received a nomination for a humpback whale national marine sanctuary in the waters off the western coast of Maui, Hawaii. This area had been identified as a principal breeding and calving area for the wintering population of approximately 600 endangered humpbacks. On March 17, 1982, NOAA declared the site an Active Candidate for the national marine sanctuary designation. In January 1984, NOAA released the "Proposed Hawaii Humpback Whale National Marine Sanctuary Draft Environmental Impact Statement/Draft Management Plan" for public review and comment. Based on the comments received, subsequent review and consideration of the site was suspended.

Other species of marine mammals that frequent the waters around Kahoolawe Island include pilot whales (*Gobicephala melaena*), false killer whales (*Pseudorca crassidens*), Pacific bottlenose dolphins (*Tursiops* sp.), and spinner dolphins (*Stenella longirostris*). A majority of the Hawaiian population of juvenile and adult green sea turtles (*Chelonia mydas*) are found in the nearshore habitat of the Hawaiian archipelago (Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu, Kauai, and Niihau). However, at least 90% of all reproductive activity associated with this Federally-protected species occurs at French Frigate Shoals in the Northwestern Hawaiian Islands. The endangered Hawaiian monk seal (*Monachus schauinslandi*) is found primarily in the Northwestern Hawaiian Islands.

Coral reef development in the Hawaiian Islands is varied. In general, reefs in the eastern portion of the island

chain are less developed than the complex calcareous structures found in the Northwestern Hawaiian Islands and tropical Indo-Pacific region. This is due to several factors: Exposure to large waves; suboptimal water temperature, clarity and salinity; and geographic isolation, which has left the archipelago without the main reef-building coral of the Pacific, *Acropora* sp. However, extensive fringing reefs are found off the coasts of Oahu, Kauai, the south coast of Molokai, and the northwest coast of Lanai. *Porites* sp. and *Pocillopora* sp. are the most common reef-building corals in the Hawaiian Islands.

Coral reefs provide habitat for a wide variety of marine life including fish, crustaceans, mollusks and worms. They provide important breeding and nursery grounds for economically important fisheries. Terraces and sharp "drop-offs", at depths of 50-75 meters, are also associated with some of the most abundant and economically valuable fisheries in the State such as grouper (*Serranidae* sp.), snapper (*Lutjanidae* sp.), tuna (*Scombridae* sp.) and Kona crab (*Ranina ranina*).

NOAA is seeking information on marine, ecological, and cultural resources throughout the Hawaiian Islands in its evaluation of the waters adjacent to Kahoolawe Island for national marine sanctuary status. NOAA believes that a comprehensive information base concerning the marine resources in Hawaiian waters will enable the agency to better evaluate the resources of Kahoolawe. NOAA will employ the criteria found in Section 303 of the Act to determine if the marine resources of the Kahoolawe area merit further evaluation for sanctuary designation. These criteria include:

- (1) The area's natural resource and ecological qualities;
- (2) The area's historical, cultural, archeological, or paleontological significance;
- (3) The present and potential uses that depend on maintenance of the area's marine resources;
- (4) The present and potential activities that may adversely affect the area's resources;
- (5) The existing State and Federal regulatory and management authorities;
- (6) The manageability of the area, including such factors as its size, accessibility, and suitability for monitoring and enforcement activities;
- (7) The public benefits to be derived from sanctuary status;
- (8) The significance of the area from a regional and national perspective;

and

- (9) The potential for coordinated and comprehensive conservation and management of the area.

In addition to materials collected by NOAA, information gathered through the public scoping meetings, coordination with other Federal, State, and local resource management agencies, and input from public advocacy groups will be incorporated into the report. The Kahoolawe Island National Marine Sanctuary feasibility study, along with NOAA's recommendation for further action, is to be transmitted to the Congress by December 1, 1991, and will be made available to the public at that time.

Federal Domestic Assistance Catalogue Number 11.429; Marine Sanctuary Program

Dated: July 24, 1991.

John J. Carey,

Deputy Assistant Administrator, National Ocean Service.

[Docket No. 910788-1188]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of control date for entry into the snapper-grouper fishery.

SUMMARY: This notice announces that anyone entering the snapper-grouper fishery, other than the wreckfish sector of the fishery, in the exclusive economic zone (EEZ) off the South Atlantic states after July 30, 1991 (control date), may not be assured of future access to the fishery if a management regime is developed and implemented under the Magnuson Fishery Conservation and Management Act (Magnuson Act) that limits the number of participants in the fishery. This notice is intended to promote awareness of potential eligibility criteria for access to the snapper-grouper fishery and to discourage new entries into the fishery based on economic speculation while the South Atlantic Fishery Management Council (Council) contemplates whether and how fishery access to the snapper-grouper resource should be controlled. This announcement does not prevent establishment of any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed by the Council or being implemented by the Secretary of Commerce (Secretary).

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-893-3161.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery is managed

under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), prepared by the Council, and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Act.

The Council is developing a limited access system for the wreckfish sector of the snapper-grouper fishery. A notice of a March 28, 1990, control date for entry into the wreckfish sector was published on September 24, 1990 (55 FR 39039). The Council anticipates developing a limited access system in the remaining sectors of the snapper-grouper fishery. Comments received by the Council during development of Amendment 4 to the FMP support the concept of limited access for all sectors of the fishery.

The Council voted to establish July 30, 1991, as a control date for new entrants into the snapper-grouper fishery, other than the wreckfish sector of the fishery, in the EEZ off the South Atlantic states and requested that a notice be published in the *Federal Register* announcing that anyone entering sectors of the snapper-grouper fishery other than the wreckfish sector after the control date will not be assured of future participation if the Council develops, and the Secretary approves and implements, an effort-controlled fishery management regime limiting the number of participants in the fishery. The Council intends to evaluate participation in the fishery by documentation of landings of snapper-grouper prior to the control date.

In establishing a control date and making this announcement, the Council intends to discourage speculative entry into the snapper-grouper fishery while the Council discusses possible limited entry or access-controlled management regimes for the fishery. As the Council develops a limited entry or access-controlled management regime, certain fishermen who do not currently fish for snapper-grouper other than wreckfish, and never have done so, may decide to enter the fishery for the sole purpose of establishing a record of making commercial landings. In the absence of a control date, such a record generally may be considered indicative of economic dependence on the fishery. On this basis, such fishermen may successfully lay claim to access to a snapper-grouper fishery that the Council may intend to be limited to traditional participants. New fishery entrants subsequent to the establishment of any limited entry or access-controlled system may have to buy the fishing rights or a permit from an existing participant. Hence, initial access to the fishery at little or no cost may result in a windfall gain when selling an access

right to a new entrant subsequent to establishment of a limited entry or access-controlled system.

When management authorities begin to consider use of a limited access management regime, speculative entry into a fishery often is responsible for a rapid increase in fishing effort in fisheries already fully or over-developed. Those seeking possible windfall gain from a potential management change can exacerbate the original problems. To help distinguish *bona fide* and established snapper-grouper fishermen from speculative entrants to the fishery, a control date may be set before beginning discussions and planning of limited access regimes. As a result, fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery resource on grounds of previous participation.

This establishment of a control date does not commit the Council or the Secretary to any particular management regime or criterion for entry into the snapper-grouper fishery. Fishermen are not guaranteed future participation in the fishery regardless of their date of entry or intensity of participation in the fishery before or after the control date. The Council may subsequently choose a different control date, or it may choose a management regime that does not make use of such a date. The Council is free to apply other qualifying criteria for fishery entry. The Council may give varying considerations to fishermen in the fishery before and after the control date. Finally, the Council may choose to take no further action to control entry or access to the fishery.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 24, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 91-18003 Filed 7-29-91; 8:45 am]

BILLING CODE 3510-22-M

National Fish and Seafood Promotional Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

TIME AND DATE: The meeting will convene at 9 a.m. on Monday, August 12, and adjourn approximately 12 noon on Tuesday, August 13, 1991.

PLACE: Sheraton Hotel, 401 East 6th Avenue, Anchorage, AK 99501.

STATUS: NOAA announces a meeting of the National Fish and Seafood Promotional Council (NFSPC). The NFSPC, consisting of 15 industry

members and the Secretary of Commerce as a non-voting member, was established by the Fish and Seafood Promotion Act of 1986 to carry out programs to promote the consumption of fish and seafood and to improve the competitiveness of the U.S. fishing industry.

The NFSPC is required to submit an annual marketing plan and budget to the Secretary of Commerce for his approval that describes the marketing and promotion activities the NFSPC intends to carry out. Funding for NFSPC activities is provided through Congressional appropriations.

Matters To Be Considered

Portion Opened to the Public

August 12, 1991

9 a.m.-12:30 p.m.—Chairman's opening remarks; approval of minutes from previous meeting; review of meeting agenda and objectives; presentation of retrospective video on Council program and consumer and industry comments video; presentation of results of summer radio advertising campaign: rating levels achieved, consumer reaction, etc.; preliminary report on retail tie-in program in the six "heavy-up" markets, including available retail sales comparisons. 12:30 p.m.-2 p.m.—Lunch. 2 p.m.-5 p.m.—Administrative team update, including budget recap and funds availability; plans for October Seafood Month and holiday food editor packages, and discussion of additional project plans through 1991.

August 13, 1991

9 a.m.-12 noon—Update on results of industry pollings regarding the referendum issue; discussion of future Council options and other general business.

Portion Closed to the Public: None

FOR FURTHER INFORMATION CONTACT:

Jeanne M. Grasso, Program Manager, National Fish and Seafood Promotional Council, 1825 Connecticut Avenue NW., room 620, Washington, DC 20235. Telephone: (202) 606-4237.

Dated: July 25, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-18002 Filed 7-29-91; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council was unable to complete its lengthy agenda at its June 24-28, 1991, meeting in Anchorage, Alaska. The meeting will reconvene on August 13 at 10 a.m., at the Baranof Hotel in Juneau, Alaska, and is scheduled to continue at least through August 15.

The only agenda items completed in the earlier session were approval of an inshore-offshore amendment for Secretarial Review, approval of halibut limited access proposals for public review, and direction to staff on bycatch amendments (this last item was done by a Council teleconference on July 3). All other items on the Council's June agenda remain to be considered at this meeting. In addition, draft regulations to implement the inshore-offshore amendment may be available for Council review at the August meeting.

For more information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510; telephone: (907) 271-2809.

Dated: July 25, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-18005 Filed 7-29-91; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License; Alton Dean Medical, Inc.

This is notice in accordance with 35 USC 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the inventions embodied in U.S. Patent Application Serial Number 7-606,967, entitled "Device for Intratracheal Ventilation and Intratracheal Pulmonary Ventilation," and its continuation-in-part, SN 7-702,449, entitled "Catheter Tip for Intratracheal Ventilation and Intratracheal Pulmonary Ventilation," to Alton Dean Medical, Inc. having a place of business in North Salt Lake, Utah. The patent rights in these inventions have been assigned to the United States of America.

The prospective exclusive license will

be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present inventions consist of a method and apparatus for intratracheal ventilation (ITV) and intratracheal pulmonary ventilation (ITPV) in which a catheter positioned in a patient's trachea at the carina supplies a constant supply of fresh oxygen containing gas to flush anatomical dead space. By positioning the catheter in the patient's trachea, the dead space of the trachea is bypassed and the trachea is only utilized for expiration. The catheter includes a catheter tip which directs the constant supply of fresh oxygen containing gas in a manner so as to create sub-atmospheric pressure near the carina and thus allows control of intratracheal airway pressures during the entire respiratory cycle and prevents overinflation of the lungs. By providing a timed expiratory valve in the ITPV mode, lower pressures and fresh oxygen flow rates may be utilized with respiratory rates from 10 to 120/min. or higher.

The availability of SN 7-606,967 for licensing was published in the *Federal Register*, Vol. 56, #64, p. 13628 (April 3, 1991). The availability of SN 7-702,479 for licensing is announced herein.

A copy of the instant patent applications may be purchased from the NTIS sales desk by telephoning 1-800-553-NTIS or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Neil L. Mark, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91-17981 Filed 7-29-91; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of a Request for Bilateral Textile Consultations on Silk Blend and Other Vegetable Fiber Coats Produced or Manufactured in Taiwan

July 24, 1991.

AGENCY: Committee for the
Implementation of Textile Agreements
(CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT:

Kim-Bang Nguyen, International Trade
Specialist, Office of Textiles and
Apparel, U.S. Department of Commerce,
(202) 377-4212. For information on
categories on which consultations have
been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March
3, 1972, as amended; section 204 of the
Agricultural Act of 1956, as amended (7
U.S.C. 1854).

On July 9, 1991, the American Institute
in Taiwan (AIT) requested consultations
with the Coordination Council for North
American Affairs (CCNAA) regarding
imports of women's and girls' coats in
Category 835, produced or manufactured
in Taiwan. This request was made on
the basis of the current bilateral
agreement between AIT and CCNAA.

CITA reserves the right to control
imports at the level under paragraph 7 of
the agreement. The AIT remains
committed to finding a solution
concerning this category. Should such a
solution be reached in consultations
with CCNAA, further notice will be
published in the *Federal Register*.

Anyone wishing to comment or
provide data or information regarding
the treatment of Category 835, under the
agreement or to comment on domestic
production or availability of products
included in Category 835, is invited to
submit 10 copies of such comments or
information to Auggie D. Tantillo,
Chairman, Committee for the
Implementation of Textile Agreements,
U.S. Department of Commerce,
Washington, DC 20230; ATTN: Helen L.
LeGrande.

Because the consultations are
scheduled for August 1991, comments
should be submitted promptly. Comments
or information submitted in
response to this notice will be available
for public inspection in the Office of
Textiles and Apparel, room H3100, U.S.
Department of Commerce, 14th and
Constitution Avenue, NW, Washington,
DC.

Further comments may be invited
regarding particular comments or
information received from the public
which the Committee for the
Implementation of Textile Agreements
considers appropriate for further
consideration.

The solicitation of comments
regarding any aspect of the agreement
or the implementation thereof is not a
waiver in any respect of the exemption
contained in 5 U.S.C. 553(a)(1) relating
to matters which constitute "a foreign
affairs function of the United States."

A description of the textile and
apparel categories in terms of HTS
numbers is available in the
CORRELATION: Textile and Apparel
Categories with the Harmonized Tariff
Schedule of the United States (see
Federal Register notice 55 FR 50756,
published on December 10, 1990).

Auggie D. Tantillo,

*Chairman, Committee for the Implementation
of Textile Agreements.*

[FR Doc. 91-18013 Filed 7-29-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

DIA Advisory Board; Closed Meetings

AGENCY: Defense Intelligence Agency
Advisory Board.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of
subsection (d) of section 10 of Public
Law 92-463, as amended by section 5 of
Public Law 94-409, notice is hereby
given that closed meetings of a panel of
the DIA Advisory Board have been
scheduled as follows.

DATES: Wednesday, August 28, 1991 (9
a.m. to 5 p.m.); Tuesday, September 24,
1991 (9 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB,
Washington, DC.

FOR FURTHER INFORMATION CONTACT:
Lieutenant Colonel John G. Sutay,
USAF, Chief, DIA Advisory Board,
Washington, DC 20340-1328 (202/373-
4930).

SUPPLEMENTARY INFORMATION: The
entire meetings will be devoted to the
discussion of classified information as
defined in section 552b(c)(1), title 5 of
the U.S. Code and therefore will be
closed to the public. Subject matter will
be used in a special study on
Technologies and Applications.

Dated: July 24, 1991.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 91-17954 Filed 7-29-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Plus and Supplemental Loans for Students Programs

AGENCY: Department of Education.

ACTION: Notice of SLS and PLUS interest
rate for the period July 1, 1991, through
June 30, 1992.

The Acting Assistant Secretary for
Postsecondary Education announces the
interest rate for variable rate
Supplemental Loans for Students (SLS)
and PLUS loans to be 9.34 percent for
the period July 1, 1991, through June 30,
1992. The interest rate for these loans is
provided under section 427A of the
Higher Education Act of 1965 (the Act),
as amended (20 U.S.C. 1077a(c)).

Section 427A(c) of the Act provides
that a variable interest rate applies to
SLS and PLUS loans disbursed on or
after July 1, 1987, existing SLS and PLUS
loans made at a variable interest rate,
and SLS and PLUS loans made prior to
July 1, 1987 that are refinanced at a
variable rate. The variable rate applies
for each 12-month period beginning July
1 and ending June 30.

Pursuant to section 427A(c) of the Act,
as amended, the Acting Assistant
Secretary has determined the interest
rate for variable rate PLUS and SLS
loans for the period July 1, 1991 through
June 30, 1992 in the following manner:

Step 1. By determining the bond
equivalent rate of the 52-week Treasury
bills sold at the final auction prior to
June 1, 1991 (6.09 percent); and

Step 2. By adding 3.25 percent to the
average.

FOR FURTHER INFORMATION CONTACT:
Ralph B. Madden, Senior Program
Specialist, Guaranteed Student Loan
Branch, Division of Policy and Program
Development, Department of Education
on (202) 708-8242.

(20 U.S.C. 1077a(c)).

Dated: July 22, 1991.

(Catalog of Federal Domestic Assistance No.
94.032, Guaranteed Student Loan Program
and PLUS Program)

Michael J. Farrell,

*Acting Assistant Secretary for Postsecondary
Education.*

[FR Doc. 91-17965 Filed 7-29-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Twenty-Two Cooperative Agreements Under the State Heating Oil Program**AGENCY:** Department of Energy (DOE).**ACTION:** Notice of intent to make the following restricted eligibility financial assistance awards:

DE-FC01-91E122713—State of Iowa
 DE-FC01-91E122714—State of Nebraska
 DE-FC01-91E122715—State of New York
 DE-FC01-91E122716—State of North Carolina
 DE-FC01-91E122717—State of Ohio
 DE-FC01-91E122718—State of Vermont
 DE-FC01-91E122719—State of Minnesota
 DE-FC01-91E122720—State of Michigan
 DE-FC01-91E122722—District of Columbia
 DE-FC01-91E122723—State of Massachusetts
 DE-FC01-91E122725—State of Wisconsin
 DE-FC01-91E122780—State of Connecticut
 DE-FC01-91E122781—State of New Hampshire
 DE-FC01-91E122782—State of New Jersey
 DE-FC01-91E122783—State of South Dakota
 DE-FC01-91E122784—State of Pennsylvania
 DE-FC01-91E122786—State of Maine
 DE-FC01-91E122785—State of Virginia
 DE-FC01-91E122787—State of Rhode Island
 DE-FC01-91E122788—State of Maryland
 DE-FC01-91E122789—State of Indiana
 DE-FC01-91E122790—State of Missouri

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7, it is making twenty-two (22) restricted eligibility financial assistance awards under the above listed Cooperative Agreements.

The awards will total \$486,000.00 (DOE share: \$243,000.00 Recipients share: \$243,000.00). The cooperative agreements will permit the involved states to complete and receive payment for conducting semi-monthly surveys to collect state level residential No. 2 heating oil and propane prices during the heating season. These data will provide Congress with information to be utilized in analyzing the heating fuels markets in the event of supply and price related crises.

SCOPE: The objective of the proposed cooperative agreements is to analyze the heating fuels markets, during the heating season, in order to determine these states' specific program plans and individual needs for heating fuels statistics.

ELIGIBILITY: Out of a universe of 50 potentially eligible states, Congress has mandated that data be collected from only primary residential fuel consuming states. As a result of this mandate, only 22 states have been identified as the primary residential fuel consuming states. Furthermore, these states have unique qualifications and capabilities to

provide the necessary information, based on their participation in this program in prior heating seasons, and have established data collection relationships with the heating oil distributors and refiners. Accordingly, it has been determined that the objectives of this program may only be achieved by the 22 states identified above.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Ms. Donna Williams, PR-322.2, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91-18008 Filed 7-29-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 90-84-NG]

Centra Gas Manitoba; Application for Long-Term Authorization To Export Natural Gas to Canada**AGENCY:** Office of Fossil Energy, DOE.**ACTION:** Notice of application for long-term authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed by Centra Gas Manitoba (Centra) on September 25, 1990, as supplemented on June 7, and June 17, 1991, for long-term authorization to export up to 13.5 Bcf of natural gas to Canada over a term beginning on the date of first delivery through March 31, 1995. Pursuant to a November 1, 1990, gas sales contract with Coastal Gas Marketing Company (Coastal), Centra intends to use existing facilities in the United States to export natural gas by backhaul (as more fully described below) to TransCanada PipeLines Limited (TransCanada). TransCanada would then deliver the backhaul volumes to Centra near Winnipeg, Manitoba, Canada.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, August 29, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of

Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9590.
 Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Centra, a corporation organized and existing under the laws of the Province of Manitoba, Canada, has its principal place of business in Winnipeg, Manitoba. Centra's ultimate parent corporation is Westcoast Energy Inc., a company incorporated pursuant to the laws of Canada. Under a Centra's export arrangement with Coastal, a natural gas marketing company and Delaware corporation located in Houston, Texas, Coastal has arranged for the storage and backhaul transportation of natural gas on the systems of ANR Pipeline (ANR) and Great Lakes Gas Transmission Company (Great Lakes). Great Lakes interconnects with ANR in central Michigan and crosses northern Michigan, Wisconsin, and Minnesota before interconnecting with TransCanada's facilities near Emerson, Manitoba, Canada.

According to Centra, the backhaul would be accomplished by Coastal providing gas downstream to the southern segment of Great Lakes' facilities. ANR, under its arrangement with Coastal, would deliver to Great Lakes the same volumes downstream that Centra nominates daily during the winter season, thus allowing TransCanada to provide Centra equivalent gas supplies at Centra city gate in Winnipeg, Manitoba. In essence, TransCanada would deliver less gas to Great Lakes to meet Centra's gas demand in Canada, but Coastal would make up the shortfall by supplying equivalent volumes of domestic and/or other Canadian supplies from ANR's gas storage facility near its interconnection with Great Lakes' system at Farwell, Michigan. The net effect of the arrangement would be: (1) To allow TransCanada and Great Lakes to transport Centra's requirements via backhaul while; (2) equivalent volumes continue to flow into Great Lakes' system for delivery in the U.S. or

Canada downstream of ANR Storage. Great Lakes was authorized to import from and export to Canada up to 925,000 Mcf/d through November 1, 2005 (see, DOE/ERA Opinion and Order No. 264, August 9, 1988).

Centra states that all the backhaul gas delivered from TransCanada would be Canadian and, because Coastal would be making up those supplies downstream, there would be no net change in the volume of gas exported back into Canada on Great Lakes' system by virtue of the arrangement if approved by DOE.

According to the application, the gas sales contract between Centra and Coastal provides for a price consisting of a demand and commodity charge. The commodity charge would be calculated from the Inside FERC Gas Market Report's average price index of spot gas delivered to pipelines for the State of Louisiana for the months of May through October in the first contract year and for April through October in each subsequent contract year. The demand or transportation charge would be for firm deliveries from Great Lakes' receipt and delivery points, as described in the November 1, 1990, Centra/Coastal gas sales contract, and would not exceed \$.27 per MMBtu for the first year.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the natural gas will be considered, and any other issues determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Centra's application is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 24, 1991.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fossil Energy.

[FR Doc. 91-18009 Filed 7-30-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-39-NG]

The Montana Power Co.; Application for Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed by The Montana Power Company (MPC) on June 3, 1991, as supplemented June 14, 1991, for authorization to import up to 50,000 MMBtu per day (50,000 Mcf) of natural gas from Canada beginning November 1, 1991, through October 31, 2006. MPC proposes to import this gas from its wholly-owned Canadian subsidiary, Canadian-Montana Pipe Line Company (CMPL), for its system supply. The volumes would enter the pipeline facilities of MPC at a point on the international boundary with the United States near Aden, Alberta (Whitlash, Montana). No new pipeline construction is required. If this application is approved, it would replace MPC's existing authorization to import gas from CMPL which otherwise would expire December 31, 1992, and also lower by one-half the daily volume that had previously been authorized.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notice of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, August 29, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

P.J. Fleming, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-4819.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: MPC is a public utility that operates an intrastate natural gas pipeline serving customers throughout western and central Montana. Since the early 1980's MPC's natural gas supply has been composed of about one-fourth Canadian natural gas and three-fourths Montana natural gas. All of MPC's Canadian gas is imported under two long-term agreements with CMPL, except for a small amount obtained under a two-year blanket authorization granted by FE that will end February 6, 1993 (1 FE ¶70,409). The blanket imports have been short-term arrangements to augment other gas supplies during the winter heating season.

MPC is currently receiving the majority of its natural gas supplies from Canada at Aden, Alberta, under a contract between MPC and CMPL dated October 30, 1984, as amended. This is the same contract that is the subject of the present application. The importation of this gas was initially approved by the Federal Power Commission (FPC). By order issued March 21, 1975, as amended, MPC is authorized to import a maximum daily volume of gas not to exceed 99,460 Mcf through December 31, 1992. See 53 FPC 908. This authorization would be replaced during its remaining term by the authorization sought in this proceeding.

MPC is also currently purchasing gas from CMPL under a separate long-term agreement dated May 1, 1979, as amended, and import authorization initially approved by the Economic Regulatory Administration (ERA) of DOE. The term of this authorization to import 1,060 Mcf per day produced from the Reagan gas field spanning the international border in southwestern Alberta extends through December 31, 1993. See 1 ERA ¶70,542 (July 20, 1981).

In its present application, MPC requests authorization to continue to import natural gas at Aden, but at a reduced level of 50,000 Mcf per day (in contrast to 99,460 Mcf per day), beginning November 1, 1991, for a period ending October 31, 2006. MPC's proposal would result in its current authorization being vacated a year before its expiration date when the new authorization becomes effective.

MPC states that the proposed extension of the Aden import arrangement would be governed by its

October 30, 1984, gas purchase contract with CMPL, as amended by letter agreements dated November 29, 1988, and August 1, 1989. The contract provides for a maximum daily quantity of 50,000 Mcf at an initial price of \$1.69 (U.S.) per MMBtu. The price is subject to redetermination every six months. It is intended that the redetermined price be competitive in MPC's market area. The annual contract quantity (ACQ) under the agreement would be equal to the volume authorized for export from Canada by the National Energy Board of Canada (NEB). CMPL applies to the NEB to export 10 Bcf per year. The application is currently under review.

The purchase contract imposes a take-or-pay obligation requiring MPC to purchase at least 60 percent of the ACQ. If MPC fails to take the required minimum volumes, it must pay a charge equal to 80 percent of the prevailing Imputed Alberta Border Price for each Mcf of gas below 60 percent not taken. The Imputed Alberta Border Price is established by the Government of Canada pursuant to the Petroleum Administration Act. Prepaid gas volumes may be made up by MPC over the entire contract term. If MPC has been unable to take all prepaid volumes at the time the contract expires, CMPL would refund money.

MPC has imported gas from the Aden area of Alberta since 1952. It contends that the proposed continuation of the importation of Canadian gas is necessary to meet the present and future demands of the Montana market.

The decision on MPC's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the natural gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. MPC asserts that this import arrangement is in the public interest because it is needed, competitive, and its natural gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*,

requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all

parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of MPC's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 25, 1991.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs Fossil Energy.

[FR Doc. 91-18010 Filed 7-29-91; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed With the Office of Hearings and Appeals; Week of June 28 Through July 5, 1991

During the week of June 28 through July 5, 1991, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: July 23, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 28 through July 5, 1991]

Date	Name and location of applicant	Case No.	Type of submission
6/28/91	Bernard Hanft, Forest Hills, NY	LFA-0133	Appeal of an Information Request Denial. If granted: Bernard Hanft would receive access to copies of specified documents which relate to the conversion of coal to gaseous and liquid fuels and the demonstration of such processes.
6/28/91	Sauvage Gas/John E. Jones Oil Co., Inc., St. Louis, MO	RR308-4	Request for Modification/Rescission in the Sauvage Gas Refund Proceeding. If granted: The 6/26/91 Decision and Order (Case No. RF308-13) issued to John E. Jones Oil Co., Inc. would be modified regarding the firm's Application for Refund submitted in the Sauvage Gas refund proceeding.
6/28/91	Sauvage Gas/John Mobley, St. Louis, MO	RR308-6	Request for Modification/Rescission in the Sauvage Gas Refund Proceeding. If granted: The 6/26/91 Decision and Order (Case No. RF308-19) issued to John E. Mobley would be modified regarding the firm's Application for Refund submitted in the Sauvage Gas refund proceeding.
6/28/91	Sauvage Gas/Tutcher Magic Gas Co., Inc., St. Louis, MO	RR308-5	Request for Modification/Rescission in the Sauvage Gas Refund Proceeding. If granted: The 6/26/91 Decision and Order (Case No. RF308-17) issued to Tutcher Magic Gas Co., Inc. would be modified regarding the firm's Application for Refund submitted in the Sauvage Gas refund proceeding.
6/28/91	Sauvage Gas/Joel Wilkinson/H.C. Oil Company, St. Louis, MO	RR308-7	Request for Modification/Rescission in the Sauvage Gas Refund Proceeding. If granted: The 6/26/91 Decision and Order (Case No. RF308-20) issued to Joel Wilkinson/H.C. Oil Co. would be modified regarding the firm's Application for Refund submitted in the Sauvage Gas refund proceeding.
6/28/91	Housing Authority of the City of Baltimore, Baltimore, MD	RR272-80	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The 6/13/91 Decision and Order (Case No. RF272-4075) issued to the Housing Authority of the City of Baltimore would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.
6/28/91	James L. Schwab, Spokane, WA	LFA-0134	Freedom of Information Appeal. If granted: The June 24, 1991 Freedom of Information Act Request Denial issued by the Office of Security Affairs would be rescinded, and James L. Schwab would receive access to information regarding the Schwab Investigation.
6/28/91	Texaco/Time Oil, Washington, DC	RR321-74	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The 6/21/91 Decision and Order (Case Nos. RF321-14212 and RF321-15328) issued to Time Oil would be modified regarding the firm's Application for Refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of June 28 to July 5, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case No.
6/20/91 6/28/91 thru 7/5/91	Belridge/Utah..... Texaco Refund Applications Received.	RQ8-573 RF321-16195 thru RF321-16224
7/1/91	City of Greenfield..	RF272-89442
7/1/91	Bammel Oil Co.....	RF326-311
7/1/91	Marilyn Dickson.....	RF335-30
7/2/91	E.L. Yeager.....	RF272-8944
7/1/91	CSX Transportation.	RF300-17133
7/1/91	Caribou 4 Corners Oil Inc.	RF329-6
7/1/91	B. Purity Oil Co.....	RF329-7
7/2/91	Peter Balko.....	RF300-17134
7/2/91	ICI Americas Inc....	RF300-17135
7/3/91	Thomas M. Degonia.	RF335-31
7/3/91	North Georgia College.	RF272-89444
7/5/91	United Western Energy Corp.	RF336-17
7/5/91	Thrifty Oil Co.....	RF329-8
7/5/91	Hiawatha C U School Dist.	RF272-89445
7/5/91	Hull & Smith Horse Vans, Inc.	RF272-89446
7/5/91	Home Service Oil Co. Inc.	RF330-31

[FR Doc. 91-18011 Filed 7-29-91; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Housing

[Docket No. N-91-3295]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Wendy Swire, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the document submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). It is also requested that OMB complete its review within thirty days.

This Notice lists the following information:

- (1) The title of the information collection proposal;
- (2) The office of the agency to collect the information;
- (3) The description of the need for the information and its proposed use;
- (4) The agency form number, if applicable;
- (5) What members of the public will be affected by the proposal;
- (6) How frequently information submissions will be required;
- (7) An estimate of the total numbers of hours needed to prepare the information

submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new, an extension, or reinstatement; and

(9) The telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 16, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

Submission of Proposed Information Collection to OMB

Proposal: Report on Program Participation Units under Housing Assistance Payments Contract (HAP) section 8 Moderate Rehabilitation Program.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Housing Program, Rehabilitation, Rental Housing—The data gathered from this form will enable HUD to maintain a single listing of any assistance provided under the section 8 Moderate Rehabilitation program which will identify the owners and location of project to which assistance was made, the amount of the assistance and the number of units.

Form Number: Form HUD 52525.

Respondents: Public Housing Agencies (PHA).

Frequency of Submission: Annually.

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Reporting Burden:.....	100		1		.25		25

Contact: Madeline Hastings, HUD (202) 755-4969, Wendy Swire, OMB (202) 395-6988.

Date: July 16, 1991.

Supporting Statement for Form HUD—52525

Report on Program Participation—Units Under Housing Assistance

Payments (HAP) Contract. Section 8 Moderate Rehabilitation Program

A. Justification

1. Section 8 of the Housing and Community Development (HCD) Act of 1974, as amended, authorizes HUD to provide housing assistance on behalf of eligible lower-income families occupying existing units which, through upgrading

involving at least \$3,000 per unit to correct substandard conditions, are made decent, safe, and sanitary. In addition, section 127 of Public Law 101-235-December 15, 1989, states that the Secretary shall maintain a single listing of any assistance provided under the section 8 Moderate Rehabilitation Program, which shall include a statement identifying the owner and

address of the project to which assistance was made, the amount of the assistance, and the number of units assisted.

2. PHAs must prepare Form HUD 52525 for each section 8 Moderate Rehabilitation Project under an Annual Contributions Contract (ACC) with HUD funded subsequent to the enactment of Public Law 101-235. The report on program participation will list all units under Housing Assistance Payments (HAP) Contract from funds made available to PHAs after December 15, 1989, and will identify the owner, address of property, number of units, and the amount of assistance.

If the forms were not required to be submitted, HUD could not comply with the statute, since HUD typically does not obtain this information from PHAs.

3. The burden hours for completing the form cannot be reduced any further.

4. There is no duplication.

5. This is a new form and is the first time this type of information has been requested.

6. Not applicable. No small businesses are involved.

7. Not applicable.

8. There are no special circumstances that require the information to be conducted in a manner inconsistent with CFR 1320.6.

9. There were no consultations outside the agency.

10. No assurance of confidentiality is provided because no personal information is obtained from the use of the form.

11. There are no sensitive questions contained in this form.

12. The estimated annualized cost to the Federal Government is \$4.00 per Field Office \times 25 Field Offices = \$100.00. This estimate is based on a staff person at a GS-11 level (16.00 per hourly salary) taking 15 minutes to determine that the appropriate PHAs submit the report. The estimated annualized cost to the respondent (PHA) is based on estimated \$3.00 labor-cost \times per respondents (100) = \$300.00. This is based on a staff person at a GS-5 level

(\$9.00 hourly salary) taking 15 minutes to prepare the report annually.

The estimated annualized cost to the Federal Government is \$4.00 per Field Office \times 25 Field Offices = \$100.00.

13. Number of Respondents.....	100
Annual Response.....	1
Hours per Response.....	.25
Annual Hours.....	25

The estimated burden hours per response of 15 minutes for a PHA to compile the data and fill out the report takes into consideration that this information is already known and located in the PHA's files. The form HUD 52525 will only be used once a year.

14. Not applicable—New request.

15. Not applicable—information contained in this report will not be published for statistical use.

B. Collection of Information Employing Statistical Methods

Not applicable—statistical methods are not utilized.

BILLING CODE 4210-01-M



Report on Program Participation Units Under Housing Assistance Payments (HAP) Contract Section 8 Moderate Rehabilitation Program

**U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner**

OMB Approval No. 2502-XXXX (exp. mm/dd/yy)

Project ID or HAP Contract Number

Public reporting burden for this collection of information is estimated to average XX hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-XXXX), Washington, D.C. 20503.

[illegible]

form HUD-52525 (06/05/91)
ref, Handbook 7420.3

Number of Assisted Units by bedroom size

Previous editions are obsolete

BILLING CODE 4210-01-C

Instruction for Preparation of Form HUD-52525—Report on Program Participation Units Under Housing Assistance Payments (HAP) Contract, Section 8 Moderate Rehabilitation Program

A. General Instruction

The original and 1 copy of Form HUD-52525 must be prepared and submitted to the HUD Field Office (Attention: Assisted Housing Management Branch) by Public Housing Agencies (PHAs) for each section 8 Moderate Rehabilitation Project, including the component for Single Room Occupancy Dwellings for Homeless Individuals, funded after December 15, 1989 and under Housing Assistance Payments (HAP) Contract. The initial report will include projects funded between December 15, 1989 and September 30, 1991. The initial report must be submitted by October 10, 1991.

B. Reporting Frequency

Subsequent Forms HUD-52525 must be accomplished annually as of September 30 to be received by the HUD Field Office by October 10. The Field Office will forward the original report to Headquarters, Attention: Section 8 Moderate Rehabilitation Division by October 30.

Detailed Instructions

Print or Type

1. **Region:** Indicate the Region by Roman numeral I, II, III
2. **Field Office:** Enter the name of the HUD Field Office (e.g. Baltimore Office)
3. **Public Housing Agency:** Enter the name of the PHA with which HUD has entered into an ACC.
4. **Section 8 Project Number:** Enter the eleven character alpha/numeric project number assigned to the project by the HUD Field Office. Example: MA06-K123-001
5. **Name and Address of Owner:** Enter the name of the owner (the person who signed the HAP Contract) and the owner's current address.
6. **Name and Address of Project:** Enter the street address or RT's number, city, county, state and ZIP CODE for each project
7. **Number of Units in Project:** Enter the total number of all units in the project (both assisted and unassisted)
8. **Number of Assisted Units:** and
Bedroom Distribution Total 0 1
2 3 4 5

Enter the total number of assisted units for which HAP Contract(s) have been executed by Bedroom size.

Example Bedroom Distribution Total
(size) 0 1 2 3 4
number of unit 3 4 2 5 6 20
units

9. **Contract Authority:** The Contract Authority is determined by multiplying, for each bedroom size, the number of units by the applicable Moderate Rehabilitation FMR (120 percent of the Existing Housing FMR). Then multiply the total of all products by 12 months. Example for 20 three bedroom units and 10 four bedroom units at respective published FMRs of \$300 and \$400: $20 \times \$300 \times 1.20 = \7200 ; $10 \times \$400 \times 1.20 = \4800 ; $\$7200 + \$4800 = \$12,000 \times 12 = \$144,000$ Contract Authority.
10. **Budget Authority:** The Budget Authority is determined by multiplying the Contract Authority by 15 years for the regular Mod Rehab Program or 10 years for the SRO Mod Rehab Program. Contract Authority of \$144,000 yields Budget Authority of \$2,160,000 for the regular Mod Rehab Program, and \$1,440,000 for the SRO Mod Rehab Program.

[FR Doc. 91-17970 Filed 7-29-91; 8:45 am]
BILLING CODE 4210-01-M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. D-91-956; FR-3082-D-01]

Redelegation of Authority Under Title VI of the Civil Rights Act of 1964

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: On May 13, 1971 (36 FR 8821), the Secretary of Housing and Urban Development delegated, to the Assistant Secretary for Fair Housing and Equal Opportunity, the authority to act as the "responsible Department official" in most matters relating to carrying out the requirements of title VI of the Civil Rights Act of 1964, as that authority is set forth in HUD's regulations and procedures in 24 CFR parts 1 and 2. By a notice of redelegation published June 15, 1990 (55 FR 24346) and two notices of redelegation published January 23, 1991 (55 FR 2588), the Assistant Secretary redelegated the authority to act as "responsible Department official", in certain specified circumstances, to the Regional Directors for Fair Housing and Equal Opportunity in all regions. The redelegations of authority to the

Regional Director for Fair Housing and Equal Opportunity in Region VI, however, were more limited in scope than the redelegations to the other Regional Directors. In today's notice, the Assistant Secretary is redelegating additional authority to the Regional Director for Fair Housing and Equal Opportunity in Region VI. The additional authority does not extend to proceedings involving any of the 70 Public Housing Agencies located in any of the 36 class action counties involved in the litigation in *Young v. Kemp*, Civil Action No. P. 80-8-CA, E.D. Tex., Paris Div.

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Peter Kaplin, Director, Office of Program Compliance, Office of Fair Housing and Equal Opportunity, room 5230, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2904. A telecommunications device for deaf persons (TDD) is available at (202) 708-0015. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Section A—Redelegation of Authority

The Assistant Secretary for Fair Housing and Equal Opportunity redelegates to the Regional Director for Fair Housing and Equal Opportunity in Region VI the following authority:

(a) The authority under 24 CFR 1.7(d)(2) to determine where there is a finding of compliance on all issues, that an investigation does not warrant action, and to issue the recipient a formal written determination of compliance.

(b) The authority under 24 CFR 1.7(d)(1) to issue findings of noncompliance, in connection with periodic compliance reviews, and to attempt to resolve such noncompliance findings by informal means under the following circumstances:

(1) The recipient has engaged in the specifically prohibited discriminatory actions described under 24 CFR 1.4(b)(2)(ii), or has failed to keep, submit or provide access to information required under 24 CFR 1.6 (b) and (c);

(2) No other violations of 24 CFR part 1 are found;

(3) The violation has not resulted in, or perpetuated, patterns of occupancy that are inconsistent with Part 1;

(4) No individual or class or individuals can be identified who have been injured by the prohibited discriminatory action;

(5) No affirmative action is necessary to overcome the effects of prior discrimination or conditions which resulted in limiting participation by

persons of a particular race, color or national origin; or

(6) The recipient is not currently operating under a voluntary compliance agreement entered pursuant to 24 CFR part 1.

(c) The Regional Director for Fair Housing and Equal Opportunity in Region VI may not redelegate the authority granted under this redelegation.

Section B—Authority Excepted

The authority granted under Section A of this redelegation does not include authority under 24 CFR part 1 to make findings of compliance or noncompliance involving any of the 70 Public Housing Agencies located in any of the 36 class action counties involved in the litigation in *Young v. Kemp*, Civil Action No. P. 80-8-CA, E.D. Tex., Paris Div.

Authority: 42 U.S.C. 2006d; 42 U.S.C. 3535(d).

Dated: July 1, 1991.

Gordon H. Mansfield,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 91-17969 Filed 7-29-91; 8:45 am]

BILLING CODE 4210-28-M

Office of the Regional Administrator— Regional Housing Commissioner

[Docket No. D-91-955]

Acting Regional Administrator, Region IV (Atlanta); Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Regional Administrator for Region IV.

EFFECTIVE DATE: July 14, 1991.

FOR FURTHER INFORMATION CONTACT:

Charles A. Liphthrott, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, room 634, Richard B. Russell Federal Building, 75 Spring Street SW., Atlanta, Georgia 30303-3388, 404-331-5199.

Designation of Acting Regional Administrator for Region IV

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of, or vacancy in the position of, the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: Provided, That

no official is authorized to serve as Acting Regional Administrator unless all other employees whose names or titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Regional Administrator.
2. Executive Assistant.
3. Director, Office of Housing.
4. Director, Office of Administration.
5. Director, Office of Public Housing.
6. Director, Office of Community Planning and Development.
7. Regional Counsel.
8. Director, Office of Fair Housing and Equal Opportunity.
9. Georgia Program Coordinator.
10. Director, Operational Support Division.

This designation supersedes the designation effective September 11, 1990 (55 FR 41891, October 18, 1990).

(Delegation of Authority by the Secretary effective May 4, 1962, (27 FR 4319, May 4, 1962); Dept. Interim Order II (31 FR 815, January 21, 1968)

This designation shall be effective as of July 14, 1991.

Raymond A. Harris,

Regional Administrator-Regional Housing Commissioner, Region IV (Atlanta).

[FR Doc. 91-17968 Filed 7-29-91; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Susanville District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 95-579 (FLPMA), that the Susanville District Advisory Council will hold a business meeting on Thursday, August 29, 1991, from 10 a.m. to 4:30 p.m. in the Conference Room of the Bureau of Land Management's (BLM) Susanville District Office, 705 Hall Street, Susanville, California, 96130. Topics scheduled for discussion include resource values and management needs in High Rock Canyon, development of an interim management plan for the Black Rock Desert and High Rock Canyon areas, formation of a Susanville and Winnemucca District Advisory Council subcommittee on the Black Rock Desert and High Rock Canyon, the upcoming appointment of council members and a change in chairmanship. The meeting will also include a public discussion of the Susanville District's FY 1992 helicopter gathering plans for wild

horses and burros. The council will also be updated on other BLM programs and initiatives.

The meeting is open to the public, and interested persons may make oral statements or file a written statement for the council's consideration. Those wishing to make oral statements must notify the Susanville District Manager, 705 Hall Street, Susanville, CA 96130, by Monday, Aug. 19, 1991. Depending on the number of persons wishing to speak, a time limit may be imposed.

For further information, contact: Jeff Fontana, (916) 257-5381.

Robert J. Sherve,

Associate District Manager.

[FR Doc. 91-17975 Filed 7-29-91; 8:45 am]

BILLING CODE 4310-40-M

National Park Service

Final Environmental Impact Statement, George Washington Memorial Parkway—Potomac Greens

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: Notice is hereby given that the National Park Service is releasing a final Environmental Impact Statement for George Washington Memorial Parkway, Potomac Greens, Virginia. This Environmental Impact Statement is required by Public Law 100-446, and addresses the potential impacts to the George Washington Memorial Parkway which may result from proposed private development of the 38-acre Potomac Greens tract located immediately to the west of Daingerfield Island on the Parkway in Alexandria, Virginia. The Environmental Impact Statement focuses on the potential impacts of the planned Potomac Greens development on traffic and the visual, recreational, and historical integrity of the Parkway. The Environmental Impact Statement presents mitigating alternatives for consideration.

The final Environmental Impact Statement will be available for public review at the National Park Service, National Capital Region, Office of Land Use Coordination, 1100 Ohio Drive SW., room 201, Washington, DC.

SUPPLEMENTARY INFORMATION: Send requests for further information to Mr. John Parsons, Associate Regional Director, Land Use Coordination, National Park Service, National Capital Region, 1100 Ohio Drive SW., Washington, DC 20242.

Dated: July 17, 1991.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 91-18016 Filed 7-29-91; 8:45 am]

BILLING CODE 4310-70-M

Civil War Sites Advisory Commission; Meetings

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of the Civil War Sites Advisory Commission.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that a meeting of the Civil War Sites Advisory Commission will be held on August 16, 1991 in the First Floor Conference Room, 1100 L Street NW., Washington, DC.

The meeting will begin at 9 a.m. and conclude at 4 p.m.

This meeting constitutes the second meeting of the Commission. The Commissioners will hear various reports on the proposed work of the Commission.

Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Anyone may file with the Board a written statement concerning matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Dr. Marilyn Nickels, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013-7127 (telephone 202-343-9549). Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in room 6111, 1100 L Street NW., Washington, DC.

Dated: July 22, 1991.

Lawrence E. Aten,

Acting Executive Director and Chief, Interagency Resources Division.

[FR Doc. 91-18017 Filed 7-29-91; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 16, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC

20013-7127. Written comments should be submitted by August 14, 1991.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Mesa County

Devils Kitchen Picnic Shelter (Colorado National Monument MPS), Near E entrance, Colorado National Monument, Grand Junction vicinity, 91001051

Rim Rock Drive Historic District (Colorado National Monument MPS), Extending S and E from W entrance to E entrance, Colorado National Monument, Grand Junction vicinity, 91001054

Saddlehorn Historic District (Colorado National Monument MPS), Near W entrance, Colorado National Monument, Grand Junction vicinity, 91001053

Serpent's Trail (Colorado National Monument MPS), Near E entrance, Colorado National Monument, Grand Junction vicinity, 91001052

LOUISIANA

Caddo Parish

Long, Huey P., House, 305 Forest Ave., Shreveport, 91001060

Pointe Coupee Parish

Labatut (Louisiana's French Creole Architecture MPS), Jct. of LA 420 and LA 10, New Roads vicinity, 91001058

MINNESOTA

Hennepin County

Church of St. Stephen (Catholic), 2201 Clinton Ave. S., Minneapolis, 91001058

Itasca County

Bovey Village Hall (Federal Relief Construction in Minnesota MPS), 402 2d St., Bovey, 91001059

Lac Qui Parle County

Lac qui Parle State Park WPA—Rustic Style Historic District (Minnesota State Park CCC/WPA/Rustic Style MPS), Off Co. Hwy. 33 at SE end of Lac qui Parle Township, Montevideo vicinity, 91001055

St. Louis County

Congdon, Chester and Clara, Estate, 3300 London Rd., Duluth, 91001057

[FR Doc. 91-18018 Filed 7-29-91; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31845]

Adrian & Blissfield Rail Road Co.; Modified Rail Certificate

On February 25, 1991, Adrian & Blissfield Rail Road Company (A&B) filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150.23 to operate a rail line in Lenawee County, MI, owned by

the Michigan Department of Transportation (MDOT), consisting of 19.35 miles of track in three segments:

(1) Between milepost 325.5, at Lenawee Junction, and milepost 332.9, near Adrian, a distance of 7.40 miles (Segment 1);

(2) a) Between mileposts 0.0 and 0.25, at or near Lenawee Junction, and b) between milepost 315.5, at Riga, and milepost 325.5, a distance of 10.25 miles (Segment 2);

(3) Between milepost 0.0, at Grosvenor, and milepost 1.7, a point near the north bank of the Raisin River, a distance of 1.70 miles (Segment 3).

Segments 1 and 3 were not designated to Consolidated Rail Corporation (Conrail), but were available for subsidy under section 304 of the Regional Rail Reorganization Act of 1973. USRA-Final System Plan-July 1975—Vol. II, pp. 156-57, respectively. From April 1, 1976, when Penn Central discontinued service, until September 30, 1977, the State of Michigan provided operating subsidies to Conrail on both segments. From October 1, 1977, until September 30, 1990, Lenawee County Railroad Company, Inc. (LCR), was the designated operator (D-OP) of Segments 1 and 3. The State of Michigan purchased both segments from Penn Central on February 15, 1984.

Segments 1 and 3 qualify for a modified certificate of public convenience and necessity. A rail line which was approved for abandonment under the Final System Plan, but over which operations were continued by a D-OP, has been "fully abandoned, or approved for abandonment" within the meaning of 49 CFR 1150.21. See Finance Docket No. 28990F, Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions (not printed), served July 16, 1981, pp. 9-10.

Conrail's application to abandon Segment 2 was dismissed when a purchase agreement was entered into under the offer of financial assistance procedures. See Docket No. AB-167 (Sub-No. 154N), Conrail Abandonment of the Clinton and Vulcan Secondary Track in MI (not printed), served June 9, 1982. The acquisition by MDOT was consummated November 30, 1982. Under a modified rail certificate issued in Finance Docket No. 29997, LCR operated the segment until September 30, 1990.

Segment 2 was "approved for abandonment" within the meaning of 49 CFR 1150.21 and thus (as in the LCR proceeding) qualifies for a modified certificate. See Common Carrier Status of States, State Agencies, 363 I.C.C. 132, 135 (1980), and, e.g., Finance Docket No.

30383, Caney, Fork & Western Railroad, Inc. Modified Rail Certificate (not printed), served January 30, 1984.

Operations under the modified rail certificate were to have commenced on or about February 1, 1991, and the agreement between the State of Michigan and A&B expires September 30, 1993. Service will be offered to all shippers on an "as needed" basis. The involved line connects at Adrian with Norfolk Southern Corporation's Detroit, MI, to Fort Wayne, IN, mainline, at Lenawee Junction with Southern Michigan Railroad Society, and near Riga with Grand Trunk Western Railroad Company.

The Commission will serve a copy of this notice on the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Dated: July 24, 1991.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 91-18007 Filed 7-29-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of July 1991.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,772; Cooper Industries, Copper Distribution Equipment Div., Earlsyville, VA

TA-W-25,823; Thronton Drum Ring, Springfield, NJ

TA-W-25,754; S.D. Warren Co., Div. of Scott Paper Co., Westbrook, ME

TA-W-25,799; Eastern Steel Barrel Corp., Piscataway, NJ

TA-W-25,851; Sunshine Mining Co. (Big Creek), Kellogg, ID

TA-W-25,808; Kelsey-Hayes Corp., Mt. Vernon, OH

TA-W-25,817; Santa Fe Minerals, Inc., Dallas, TX

TA-W-25,818; Santa Fe Minerals, Inc., El Reno, OK

TA-W-25,819; Santa Fe Minerals, Inc., Lafayette, LA

TA-W-25,820; Santa Fe Minerals, Inc., Tulsa, OK

TA-W-26,006; Santa Fe Minerals, Inc., Middletown, CA

TA-W-26,007; Santa Fe Minerals, Inc., Tyrone, OK

TA-W-26,008; Santa Fe Minerals, Inc., Fort Smith, AR

TA-W-26,009; Santa Fe Minerals, Inc., Live Oak, CA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-25,863; Durawool, Inc., Queens Village, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,856; AT and T Communications, Buffalo, NY

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-25,805; Hagglunds Denison, Marysville, OH

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-25,857; B and S Testers, Gillette, WY

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers did not become totally or

partially separated as required for certification.

Affirmative Determinations

TA-W-25,854; The William Carter Co., Vicksburg, MS

A certification was issued covering all workers separated on or after May 2, 1990.

TA-W-25,833; C and R Cedar, Forks, WA

A certification was issued covering all workers separated on or after May 8, 1990.

I hereby certify that the aforementioned determinations were issued during the months of July, 1991. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: July 22, 1991.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-18001 Filed 7-29-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (91-67)]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 56FR31970, Notice Number 91-65, July 12, 1991.

PREVIOUSLY ANNOUNCED TIMES AND DATES OF MEETING: August 8, 1991, 8:15 a.m. to 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics, Exploration and Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2367.

CHANGES IN THE MEETING: The agenda for this meeting has been revised to read as follows:

Agenda

August 8, 1991

8:15 a.m.—Opening Remarks.

8:30 a.m.—Welcome, Fiscal Year 1992 Budget Status.

9 a.m.—Results and Discussion of Integrated Technology Plan External Review.

4 p.m.—Summary Session.

4:15 p.m.—Adjourn.

Dated: July 25, 1991.

Philip D. Waller,

Deputy Director, Management Operations Office.

[FR Doc. 91-17971 Filed 7-29-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before September 13, 1991. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency

records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Army (N1-AU-91-10). Records relating to general officer's quarters.
2. Department of the Army (N1-AU-91-11). Records relating to revocation of clinical privileges of health care providers.
3. Department of the Army (N1-AU-91-12). Records relating to publishing and printing.
4. Department of the Army (N1-AU-91-13). Records relating to the accommodation of religious practices.
5. Defense Logistics Agency (N1-361-91-13). Contract management records.
6. Department of the Navy (N1-NU-89-4). Routine and facilitative records relating to the general administrative management of the Department.
7. Department of the Navy (N1-NU-89-5). Routine and facilitative records relating to operations and readiness.
8. Department of Commerce, Bureau of the Census, Geography Division (N1-29-91-2). 1990 Decennial Census computer plot tapes.

9. Federal Deposit Insurance Corporation (N1-34-91-5). Bank liquidation records.

10. Department of Health and Human Services, Family Support Administration (N1-292-90-4). Comprehensive schedule for the Office of Refugee Resettlement.

11. Department of Justice, Criminal Division (N1-60-91-5). Subject, project, and correspondence files of the Deputy Assistant Attorneys General.

12. Bureau of Labor Statistics, Office of Compensation and Working Conditions (N1-257-91-2). Test project professional, administration, technical, and clerical pay survey forms, 1987.

13. National Archives and Records Administration (N1-GRS-91-4). Modification of the retention period provided by the *General Records Schedules* for microform inspection records.

14. National Capital Planning Commission (N1-328-91-1). Audiotapes of National Capital Planning Commission meetings, for which transcripts exist.

15. Department of the Treasury, Energy Policy Group (N1-56-91-3). Administrative records of the Emergency Petroleum Supply Committee, 1973-75.

16. Department of the Treasury, Office of the Secretary (N1-56-91-4). Fragments of the office file of Charles E. Walker, Under Secretary of the Treasury, 1969-71.

Dated: July 19, 1991.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 91-17974 Filed 7-29-91; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Working Group on Religious Communities

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Working Group on Religious Communities.

DATE AND TIME: Monday, August 26, 1991, 9 a.m. to 5 p.m.

PLACE: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT:

Maureen Byrnes, Executive Director,
The National Commission on Acquired
Immune Deficiency Syndrome, 1730 K
Street NW., suite 815, Washington, DC
20006 (202) 254-5125. Records shall be
kept of all Commission proceedings and
shall be available for public inspection
at this address.

AGENDA: A Working Group of the
Commission will hold a meeting to
identify the current issues and concerns
of religious communities responding to
the HIV/AIDS epidemic, and to discuss
the interface between the religious
communities' response and the Federal
Government's response to the HIV/
AIDS epidemic.

Interpreting services are available for
deaf people. Please call our TDD
number (202) 254-3816 to request
services no later than August 19, 1991.

Dated: July 24, 1991.

Maureen Byrnes,
Executive Director.

[FR Doc. 91-17992 Filed 7-29-91; 8:45 am]

BILLING CODE 6820-CN-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the
Federal Advisory Committee Act (Pub.
L. 92-463), as amended, notice is hereby
given that a meeting of the Media Arts
Advisory Panel (Media Arts Centers/
National Services I Section) to the
National Council on the Arts will be
held on August 12, 1991 from 9 a.m.-6:30
p.m. and August 13 from 9 a.m.-5:30 p.m.
in room 716 at the Nancy Hanks Center,
1100 Pennsylvania Avenue, NW.,
Washington, DC 20506.

A portion of this meeting will be open
to the public on August 13 from 4:30
p.m.-5:30 p.m. The topic will be policy
discussion.

The remaining portions of this meeting
on August 12 from 9 a.m.-6:30 p.m. and
August 13 from 9 a.m.-4:30 p.m. are for
the purpose of Panel review, discussion,
evaluation, and recommendation on
applications for financial assistance
under the National Foundation on the
Arts and the Humanities Act of 1965, as
amended, including information given in
confidence to the agency by grant
applicants. In accordance with the
determination of the Chairman of June 5,
1991, these sessions will be closed to the
public pursuant to subsection (c)(4), (6)
and (9)(B) of section 552b of title 5,
United States Code.

Any interested persons may attend, as
observers, meetings, or portions thereof,

of advisory panels which are open to the
public.

Members of the public attending an
open session of a meeting will be
permitted to participate in the panel's
discussions at the discretion of the
chairman of the panel if the chairman is
a full-time Federal employee. If the
chairman is not a full-time Federal
employee, then public participation will
be permitted at the chairman's
discretion with the approval of the full-
time Federal employee in attendance at
the meeting, in compliance with this
guidance.

If you need special accommodations
due to a disability, please contact the
Office of Special Constituencies,
National Endowment for the Arts, 1100
Pennsylvania Avenue, NW.,
Washington, DC 20506, 202/682-5532,
TTY 202/682-5496, at least seven (7)
days prior to the meeting.

Further information with reference to
this meeting can be obtained from Ms.
Yvonne M. Sabine, Advisory Committee
Management Officer, National
Endowment for the Arts, Washington,
DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,
Director, Council and Panel Operations,
National Endowment for the Arts.

[FR Doc. 91-17978 Filed 7-29-91; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the
Federal Advisory Committee Act (Pub.
L. 92-463), as amended, notice is hereby
given that a meeting of the Museum
Advisory Panel (Utilization of Museum
Resources "A" Section) to the National
Council on the Arts will be held on
August 12-13, 1991 from 9:15 a.m.-5:30
p.m. in room 730 at the Nancy Hanks
Center, 1100 Pennsylvania Avenue,
NW., Washington, DC 20506.

A portion of this meeting will be open
to the public on August 12 from 9:15
a.m.-10 a.m. The topics will be opening
remarks and general discussion.

The remaining portions of this meeting
on August 12 from 10 a.m.-5:30 p.m. and
August 13 from 9:15 a.m.-5:30 p.m. are
for the purpose of Panel review,
discussion, evaluation, and
recommendation on applications for
financial assistance under the National
Foundation on the Arts and the
Humanities Act of 1965, as amended,
including information given in
confidence to the agency by grant
applicants. In accordance with the
determination of the Chairman of June 5,
1991, these sessions will be closed to the

public pursuant to subsection (c)(4), (6)
and (9)(B) of section 552b of title 5,
United States Code.

Any interested persons may attend, as
observers, meetings, or portions thereof,
of advisory panels which are open to the
public.

Members of the public attending an
open session of a meeting will be
permitted to participate in the panel's
discussions at the discretion of the
chairman of the panel if the chairman is
a full-time Federal employee. If the
chairman is not a full-time Federal
employee, then public participation will
be permitted at the chairman's
discretion with the approval of the full-
time Federal employee in attendance at
the meeting, in compliance with this
guidance.

If you need special accommodations
due to a disability, please contact the
Office of Special Constituencies,
National Endowment for the Arts, 1100
Pennsylvania Avenue, NW.,
Washington, DC 20506, 202/682-5532,
TTY 202/682-5496, at least seven (7)
days prior to the meeting.

Further information with reference to
this meeting can be obtained from Ms.
Yvonne M. Sabine, Advisory Committee
Management Officer, National
Endowment for the Arts, Washington,
DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,
Director, Council and Panel Operations,
National Endowment for the Arts.

[FR Doc. 91-17978 Filed 7-29-91; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the
Federal Advisory Committee Act (Pub.
L. 92-463), as amended, notice is hereby
given that a meeting of the Museum
Advisory Panel (Utilization of Museum
Resources "B" Section) to the National
Council on the Arts will be held on
August 14-15, 1991 from 9:15 a.m.-5:30
p.m. in room 730 at the Nancy Hanks
Center, 1100 Pennsylvania Avenue,
NW., Washington, DC 20506.

A portion of this meeting will be open
to the public on August 14 from 9:15
a.m.-10 a.m. The topics will be opening
remarks and general discussion.

The remaining portions of this meeting
on August 14 from 10 a.m.-5:30 p.m. and
August 15 from 9:15 a.m.-5:30 p.m. are
for the purpose of Panel review,
discussion, evaluation, and
recommendation on applications for
financial assistance under the National
Foundation on the Arts and the
Humanities Act of 1965, as amended,
including information given in

confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 5, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

*Director, Council and Panel Operations,
National Endowment for the Arts.*

[FR Doc. 91-17979 Filed 7-29-91; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Renewal; Antarctic Pollution Control Task Group

Because the proposed Environmental Act has not yet been signed, it is necessary that the Antarctic Pollution Control Task Group be extended to December 31, 1991 to accommodate more meetings. Therefore, the Assistant Director for Geosciences has determined that the renewal of the Antarctic Pollution Control Task Group is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

NAME OF COMMITTEE: Antarctic Pollution Control Task Group.

PURPOSE: The Antarctic Conservation Act requires the Director of the National Science Foundation to designate pollutants and specify those actions which must or must not be taken in order to prevent or control the discharge or other disposal of pollutants from any source within Antarctica. 16 U.S.C. 2405(b) (6) and (7). The Advisory Committee will assist the National Science Foundation in formulating these pollution control regulations.

RESPONSIBLE NSF OFFICIAL: Mr. Lawrence Rudolph, Deputy General Counsel, National Science Foundation, room 501, 1800 G Street, NW., Washington, DC 20550 (202) 357-9435.

Dated: July 24, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-17966 Filed 7-29-91; 8:45 am]

BILLING CODE 7555-01-M

Office of Experimental Programs Proposal Review Panel, Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: EPSCoR Final Review Panel.

Dates: August 14-16, 1991.

Times: 3:30 p.m.-9 p.m., August 14, 1991; 8 a.m.-9 p.m., August 15, 1991; 8 a.m.-12 p.m., August 16, 1991.

Place: New Hampshire Suites Hotel, 1121 New Hampshire Avenue NW., Washington, DC 20037.

Type of Meeting: Closed.

Agenda: Review and evaluate proposals from fifteen states and the Commonwealth of Puerto Rico submitted to the EPSCoR Advanced Development competition.

Contact: Dr. Richard J. Anderson, Program Manager, Office of Experimental Programs, National Science Foundation, room 1228, Washington, DC 20550 (202) 357-7560.

Dated: July 25, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-17985 Filed 7-29-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Below Regulatory Concern; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Deferral of action; Initiation of a consensus process.

SUMMARY: The Commission is declaring a moratorium on the implementation of its July 3, 1990, BRC Policy Statement and is initiating a consensus process to provide advice to the Commission on the full range of issues related to the BRC Policy.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, U.S. Nuclear Regulatory Commission, Washington DC 20555, (301)-492-1803.

SUPPLEMENTARY INFORMATION: On July 3, 1990, the Commission published its Below Regulatory Concern Policy Statement ("BRC Policy") in the *Federal Register*. The BRC Policy Statement established the framework within which the Commission will formulate rules or make licensing decisions to exempt from some or all regulatory controls certain practices involving small quantities of radioactive materials. The adoption of the policy resulted in widespread public concern over the implications of the new Policy. In an effort to better understand the nature of these concerns, and to ensure that a BRC Policy be based on clear and comprehensive information, the Commission decided to consider the use of consensus-building techniques and evaluated the feasibility of using a consensus process to address the issues related to the BRC Policy. The evaluation was conducted through interviews with a wide number of groups across the various interests that might be affected by the BRC Policy.

On May 21, 1991, the Commission was briefed on the results of the feasibility evaluation (SECY-91-132). One of the principal findings of the feasibility evaluation was that there was substantial support for a consensus-building initiative on the BRC Policy issues. This support largely stemmed from the dissatisfaction with the process that the Commission used to develop the BRC Policy. Most groups felt that they had little effective input to the development of the Policy. For example,

although the Commission solicited comments from affected groups during the development of the Policy, it was unclear to these groups how their comments were ultimately addressed by the Commission.

On June 28, 1991, based on the findings and recommendations in the feasibility evaluation, the Commission formally initiated a phased process for seeking consensus on the full range of issues related to a BRC Policy. In connection with the implementation of this consensus process, the Commission is declaring a moratorium on the implementation of its July 3, 1990 BRC Policy, including the deferral of the consideration of any BRC petitions for rulemaking that seek BRC exemptions for generic waste streams on a national scale, such as those requested pursuant to 10 CFR part 2, appendix B. The Commission has established a target of December, 1992, as the date for completion of the BRC consensus process.

The BRC consensus process will be implemented in three phases—(I) the convening of a "core group", (II) the creation of a Steering Committee, and (III) the establishment of the plenary consensus body. Phase I involves the convening of a "core group" of representatives from the highest levels of leadership in the interests affected by the BRC Policy, including a Commissioner of the Nuclear Regulatory Commission. The core group will provide the foundation for proceeding further with the BRC consensus process and will focus on the general framework of, and conditions on, the consensus process. The work of the core group is to be completed by October 31, 1991. Phase II involves the creation of a Steering Committee, a larger group, again composed of representatives of the groups affected by the BRC Policy. The Steering Committee will develop the preliminary agenda and ground rules for the BRC consensus process and will issue the invitations to participate in the plenary consensus body. It is anticipated that the Steering Committee will complete its work by March, 1992. Phase III will involve the convening of the plenary consensus body. The plenary body will finalize the agenda and the ground rules for the BRC consensus process and will proceed to discuss the various issues related to the BRC Policy, including the issue of the need for an overarching BRC Policy. The deliberations of the plenary body will take place over a nine to ten month period, with the ultimate objective being the provision of advice to the Commission on BRC Policy issues.

A primary recommendation contained in the feasibility evaluation was that it was essential for the representatives of all affected interests, including environmental interests, to be included in the consensus process. Accordingly, the Commission will not continue to pursue the consensus process in any phase unless representatives of the full range of parties who have demonstrated a major interest in the BRC Policy are willing to participate. In addition, the Commission believes that before proceeding to the Phase II Steering Committee, there must be assurance that all parties who participate in the consensus process will agree to defer litigative and legislative actions on BRC Policy issues during the duration of the BRC consensus process. The need for such a deferral is based on the Commission's belief that, in order for the BRC consensus process to be fully effective, participants must have some assurance that their efforts will not be vitiated by the pursuit of alternative actions and to ensure that the entire range of issues are considered in this process. In fact, some groups vital to the success of the consensus process, including the Commission, may be unwilling to commit resources to the process without such an assurance. Accordingly, a primary issue for discussion by the Phase I core group must be a determination of what type of deferral is necessary to provide such an assurance and whether core group members and potential Steering Committee and plenary body members will agree to such ground rules. If agreement cannot be reached, the Commission will ask staff to initiate rulemaking on a single topic, such as the establishment of residual contamination criteria, using a process that will go beyond the normal notice and comment rulemaking. This process will include the conduct of early scoping meetings with all interested parties who are willing to participate. The objective of using this enhanced rulemaking process would be to fully ventilate the issues and seek consensus on their resolution as a basis for proposed rules on BRC-related topics.

Parties to the consensus process should also recognize that the NRC will need to continue with those activities that are necessary to provide adequate protection of the public health and safety and the environment, particularly those activities concerned with the clean-up of contaminated sites in a timely manner. Therefore, although the Commission is deferring implementation of the BRC Policy, the Commission must carry out its responsibilities to address

issues related to waste disposal, consumer products, recycling of materials, and decontamination and decommissioning, as necessary and on a case-by-case basis, in the manner in which these issues were considered prior to the publication of the BRC Policy Statement. Accordingly, the NRC staff will continue to make licensing decisions involving exemptions or site decommissioning using existing rules, criteria, and practices. However, the NRC staff will inform the Commission of all significant or controversial actions of this type. The NRC staff will also continue its development of the technical bases for BRC-related actions such as the development of residual contamination criteria. This information will also prove useful to the consensus body in its deliberations on BRC issues such as the residual radioactivity rulemaking, and for any rulemaking proceedings which will resume at the conclusion of the consensus process.

Dated at Rockville, Maryland this 24th day of July 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-17993 Filed 7-29-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of SF-171, 171-A, and 172 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S. Code, chapter 35), this notice announces a proposed revision of forms which collect information from the public. Standard Form 171, Application for Federal Employment, Standard Form 171-A, Continuation Sheet for SF 171, and the Standard Form 172, Amendment to Application for Federal Employment—SF 171, comprise the major applications forms used by applicants for Federal employment. OPM is responsible for open competitive examinations for admission to the competitive service, in accordance with section 3302, title 5, United States Code. For copies of this proposal, call C. Ronald Trueworthy on (703) 908-8550.

DATES: Comments on this proposal should be received by August 19, 1991.

ADDRESSES: Send or deliver comments to:

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, room CHP 500, 1900 E Street, NW., Washington, DC 20415.

and
Joseph Lackey, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:
Laurence T. Lorenz, (202) 606-0980.

U.S. Office of Personnel Management.

Constance Berry Newman,
Director.

[FR Doc. 91-17950 Filed 7-29-91; 8:45 am]

BILLING CODE 6325-01-M

Request for Clearance of Form SF 2803 and SF 3108

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection. Forms SF 2803, Application to Make Deposit or Redeposit (CSRS), and SF 3108, Application to Make Service Credit Payment for Civilian Service (FERS), are applications to make payment used by persons who are eligible to pay for Federal service which was not subject to retirement deductions and/or for Federal service which was subject to retirement deductions which were subsequently refunded to the applicant.

Approximately 780 forms SF 2803 and SF 3108 will be completed per year. Each form requires 30 minutes to fill out. The combined annual burden is 390 hours.

For copies of this proposal, contact C. Ronald Trueworthy, on (703) 908-8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to-

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., CHP 500, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office

Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:
Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,
Director.

[FR Doc. 91-18012 Filed 7-29-91; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-29476; File No. SR-CBOE-91-19]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to Limiting Exchange Liability Resulting From the Use by Members of Exchange Automated Systems

On May 13, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² a proposed rule change to modify Exchange Rule 6.7 to provide for a limitation on the Exchange's liability for losses resulting from an Exchange member's transmission of custody of an unexecuted order to or through the Exchange's Order Routing System, Electronic Book or Retail Automatic Execution System, or to any other automated facility of the Exchange whereby the Exchange assumes responsibility for the transmission or execution of the order.³

The proposed rule change was published for comment in Securities Exchange Act Release No. 29258 (May 30, 1991), 56 FR 26171 (June 6, 1991). No comments were received on the proposed rule change.

Currently, Exchange Rule 6.7 disclaims the CBOE's liability to its members for losses arising out of the use of facilities or systems of the Exchange. This rule was amended in 1978 to specifically disclaim any liability

relating to the newly developed Order Support System.

Despite this rule, which places the liability for any problems with the user of the systems, the Exchange has made payments to members and member firms to offset losses incurred as a result of Exchange systems' errors or outages. These payments were initially made to encourage member firms to use Exchange automated systems such as the Order Routing System ("ORS"), the Retail Automatic Execution System ("RAES"), and the Electronic Book ("EB") during their developmental stages.

The proposal will modify Exchange Rule 6.7 to support the Exchange's current practice of accepting liability under specific circumstances. The proposal permits Exchange liability for the losses resulting from an Exchange member's transmission of custody of an unexecuted order to or through ORS, RAES, EB, or to or through any other automated facility of the Exchange whereby the Exchange assumes responsibility for the transmission or execution of the order. Specifically, provided that the Exchange has acknowledged receipt of the order, the proposal permits Exchange liability for the negligent acts or omissions of its employees or for the failure of its systems or facilities. The proposal, however, limits such payments as follows:

(a) \$100,000 as to any claim or series of claims made by a single member on a single day;

(b) \$250,000 as to claims by all members on any single trading day; and

(c) \$500,000 as to all claims, in aggregate, by all members in any calendar month.

The Exchange believes that these limitations will allow the CBOE to continue to support its members and member firms at the liability levels that have been experienced since the introduction of the automated systems.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Sections 6 and 11A of the Act.⁴ Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) in that it fosters cooperation and coordination with persons engaging in processing information with respect to and facilitating transactions in securities by encouraging member firms to use

¹ 15 U.S.C. 78s(b) (1988).

² 17 CFR 240.19b-4 (1990).

³ The term "transmission of custody of an order" refers to the moment when an order actually enters an automated facility of the Exchange. The Exchange does not intend to accept liability for any losses until the order enters the CBOE's facilities. Conversation between Monica C. Michelizzi, Staff Attorney, Division of Market Regulation, SEC, and Robert P. Ackermann, Vice President Legal Services, CBOE on July 23, 1991.

⁴ 15 U.S.C. 78s(b)(5) (1988).

Exchange automated systems. The Commission also finds that the proposal is consistent with sections 11A(a)(1) (B) and (C)(i) of the Act in that the purpose of the development and implementation of Exchange automated systems is to improve the efficiency of the execution of transactions in CBOE options through the use of new data processing and communications techniques. The Commission believes that encouraging member firms to use Exchange automated systems will aid the development and implementation of these systems.

The Commission further believes that the proposed limitation on liability is a reasonable exercise of the Exchange's discretion in determining to permit Exchange liability in certain cases. The Commission notes that Exchange rules presently disclaim all CBOE liability to its member for losses arising out of the use of Exchange facilities or systems. Accordingly, since the CBOE's proposal will formalize the Exchange's policy to compensate CBOE members under certain circumstances for CBOE systems failures or errors, the proposed rule change will ensure that compensation be paid to members for certain systems' failures or errors.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,⁵ that the proposed rule change (SR-CBOE-91-19) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Dated: July 23, 1991.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-17997 Filed 7-29-91; 8:45 am]

BILLING CODE 8020-01-M

[Rel. No. 34-29478; File No. SR-DTC-91-17]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for DTC's Legal Notice System ("LENS")

July 23, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 21, 1991, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-91-17) as described in Items I, II, and III below,

which items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On June 12, 1991, the Commission issued an order approving DTC's new Legal Notice System ("LENS").² LENS enables DTC participants to order certain notices received by DTC from a menu on their Participant Terminal System ("PTS") screens. DTC is filing herewith a twenty-five cent (\$.25) per impression fee for documents ordered by participants under LENS.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC's current notice distribution system has become an enormous and expensive enterprise, requiring duplication and distribution of up to 850,000 copies per day. The expense for this is borne by DTC's participants and currently is paid for out of the participants' general fee. A recent survey revealed that most participants find that only a fraction of distributed notices are of interest to them.

Participants asked DTC to create a system that would reduce the amount of notices that they receive. LENS was developed to allow participants to prescreen and to order from a menu on their PTS screens certain notices (which may relate to bankruptcies, class actions, and default and performance histories of asset-backed securities that DTC receives and chooses to make available to participants via LENS) so that participants can avoid receiving and, ultimately, paying for the duplication and distribution of notices

that are irrelevant to them. The proposed fee will allow for equitable billing. If a participant does not order any notices, it will not be charged any fee for the duplication and distribution of LENS notices. If a participant elects to order a notice, it will be charged \$.25 per impression (\$.25 for each side of a notice page copied).

Furthermore, the LENS menu sets forth the number of pages comprising each notice, so that participants will be able to calculate the fee for the duplication of any notice before they place an order.

DTC has adopted the proposed rule change pursuant to section 17A(b)(3)(D) of the Act, which requires clearing agencies to have rules that provide for the equitable allocation of fees for the services they provide to participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has discussed the proposed rule change with and invited written comments from various participants. No comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to section 19(b)(3)(A) of the Act and pursuant to rule 19b-4(e) promulgated thereunder because the proposed rule change establishes or changes a due, fee, or other charge imposed by DTC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the

⁵ 15 U.S.C. 78s(b)(2) (1988).

⁶ 17 CFR 200.30-3(a)(12) (1990).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 29291 (June 12, 1991), 56 FR 28190 [File No. SR-DTC-91-08].

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-91-17 and should be submitted by August 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-18000 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-29474; No. SR-NYSE-91-23]

Self-Regulatory Organizations; Notice of Proposed Rule Change by New York Stock Exchange, Inc. Relating to the Discontinuance of the Use of Discretionary Market Orders in the Exchange's Automated Bond System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 8, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to discontinue the acceptance of discretionary market orders by the Exchange's Automated Bond System ("ABS").

A discretionary market order is an order, unique to the ABS system, that is eligible to trade at the current market price but that also has an undisclosed limit price. A discretionary market order moves up or down with the quotation as the quotation changes. An order to buy will move with changes in the bid and

an order to sell will move with changes in the offer. The order, however, will not trade beyond the undisclosed limit price. If the disclosed bid (or offer) price reaches the undisclosed limit price of a discretionary market order, the order is converted to a regular limit price order. In addition, if the quotation spread narrows to a half-point or less, a discretionary market order within the quotation is either executed or converted to a regular limit price order.

Under existing NYSE interpretations, ABS users currently may enter discretionary market orders into their ABS terminals. The NYSE proposes to redesign the ABS system so that it will accept only limit orders, and will no longer accept discretionary market orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose*—The NYSE introduced ABS on a pilot basis in 1976, with an initial capability to trade limit orders only. ABS became fully operational in 1977, and at that time the NYSE introduced the discretionary market order to ABS in an effort to offer ABS users greater flexibility. The NYSE currently is in the process of redesigning its ABS system. In connection with that effort, the NYSE has reviewed ABS trading procedures, including the use of discretionary market orders. The NYSE has found that ABS users rarely use discretionary market orders. Indeed, a significant number of ABS user firms have endorsed the discontinuance of the use of the order.

(b) *Basis*—The proposed change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NYSE, and, in particular, furthers the objectives of section 6(b)(5) which provides in pertinent part, that the rules of the Exchange promote just and equitable

principles of trade, facilitate transactions in securities, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NYSE has not solicited, and does not intend to solicit, comments on the proposed rule change. However, during the NYSE's review of ABS trading procedures, the NYSE received the endorsement of a significant number of ABS user firms to discontinue the discretionary market order in the ABS system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at

² 17 CFR 200.30-3(a)(12).

the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-91-23 and should be submitted by August 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 23, 1991.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-17999 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-29477; File No. SR-PSE-91-24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Withdrawal of Approval of Underlying Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 17, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend Exchange Rule 3.7 to allow the Exchange to withdraw approval of an underlying security for options trading for any reason the Exchange deems necessary. This revision will conform the PSE's rule to those of other self-regulatory organizations. The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the

most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, Exchange Rule 3.6 establishes the standards that underlying securities must satisfy in order to be eligible to underlie PSE-traded options. Exchange Rule 3.7 allows the Exchange to withdraw approval of an underlying security if the underlying security fails to meet or to maintain any one of the PSE's requirements necessary to maintain such approval. Specifically, Commentary .01 to Exchange Rule 3.7 sets forth the maintenance standards that an underlying security must satisfy in order to remain eligible for options trading. The PSE proposes to amend Exchange Rule 3.7 to allow the Exchange to withdraw approval of an underlying security for any reason it deems necessary. Thus, although an underlying security may satisfy the maintenance standards set forth in Commentary .01 to Exchange Rule 3.7, the proposed rule change will permit the PSE to withdraw approval of an underlying security for reasons other than a failure to satisfy the Exchange's options maintenance standards. The proposed amendment, which is an explicit statement of the PSE's policy and practice with respect to the administration of its listing standards rules, will conform the PSE's written rules to the rules of the American Stock Exchange ("Amex"), the Chicago Board Options Exchange ("CBOE"), the New York Stock Exchange ("NYSE"), and the Philadelphia Stock Exchange ("PHLX"), which allow those exchanges to withdraw approval of underlying securities for reasons other than a failure to satisfy the exchange's respective options listing maintenance standards.¹

The PSE believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Options Listing Committee, a standing committee of the PSE comprised of members and representatives of member firms, has endorsed the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the administration of an existing PSE rule in that it codifies the PSE practice of delisting an option for reasons related to a *bona fide* business judgment. Accordingly, the proposal has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 20, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

¹ See Amex Rule 91., CBOE Rule 5.4, NYSE Rule 710, and PHLX Rule 1010.

Dated: July 23, 1991.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-17988 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Pacific Stock Exchange,
Incorporated**

July 24, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following security:

Telecom Corporation of New Zealand Ltd.
American Depositary Shares (File No. 7-7109)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 14, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-17958 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Incorporated**

July 24, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section

12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Exel Limited

Ordinary Shares, \$0.01 Par Value (File No. 7-7107)

Enquirer/Star Group, Inc.

Common Stock, \$0.01 Par Value (File No. 7-7108)

These securities are listed and registered on one or more of the other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 14, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-17959 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

**Issuer Delisting; Application To
Withdraw From Listing and
Registration; Gould Investors L.P.,
Limited Partnership Units (File No. 1-9126)**

July 24, 1991.

Gould Investors L.P. ("Partnership") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its Limited Partnership Units ("Units") from listing on the Amex, the Partnership considered the direct and indirect costs of expenses attendant on maintaining the listing of its Units on the Amex, the

limited trading activity in the Units, the lack of public interest in the Partnership, the limited number of registered holders of Units and the fact that approximately 65% of the Units are owned by officers and directors of the Managing General Partner or companies or entities affiliated with such persons.

Any interested person may, on or before August 14, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-17960 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

**Issuer Delisting; Application To
Withdraw From Listing and
Registration; the Timberland
Company, Class A Common Stock,
\$0.01 Par Value (File No. 1-9548)**

July 24, 1991.

The Timberland Company ("Company") has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Effective at the opening of business on June 10, 1991, the Company's Class A Common Stock ("Common Stock") commenced trading on the New York Stock Exchange ("NYSE"). In making the decision to withdraw its Common Stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its Common Stock on the NYSE and Amex. The Company does not see any particular advantage in the dual trading

of its Common Stock and believes that dual listing would fragment the market for its Common Stock.

Any interested person may, on or before August 14, 1991, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-17961 Filed 7-29-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 90-13-IP-No. 2]

Takata-Gerico Corp.; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Takata-Gerico Corporation, of Denver, Colorado, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.213, Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on July 10, 1990, and an opportunity afforded for comment (55 FR 28341).

Paragraph S5.4.3.5 Buckle Release of Standard No. 213 states in pertinent part that:

"Any buckle in a child restraint system belt assembly designed to restrain a child using the system shall: (a) When tested in accordance with S8.2.1 prior to the dynamic test of S6.1, not release when a force of less than nine pounds is applied and shall release when a force of not more than 14 pounds is applied."

The Takata-Gerico Corporation believes that approximately 26,257

buckles that could release with less than nine pounds of pressure (e.g., eight pounds) were incorporated in Gerry Guardian car seats manufactured between January 31, 1990 and May 3, 1990. Takata-Gerico supported its petition for inconsequential noncompliance on the basis of the results of the Yellowstone Environmental Science study entitled Cognitive Skill Based Child-Resistant Safety Belt Buckle (March 1990). It claimed that this study concluded that the "ideal" minimum release tension should be five pounds, and the escaping child problem is better solved by providing a more comfortable and better designed seat and buckle assembly. These findings were based on the following:

1. Alleged excessive force requirements, such as those required under Standard 213, can "impede" rescue in an emergency situation. (p. 79)
 2. The upper limit of thumb opposability strength of a child from two to four years old is forty pounds. (p. 45) (Takata-Gerico stated that studies show that children under three years of age are likely to use the Guardian car seat and children in this age group are physically incapable of releasing a belt buckle at seven pounds.)
 3. A study of 1500 children, whose car seat habits were studied, revealed that children escape from seats through means other than releasing the belt buckle (p. 16).
 4. A car seat design in which the child is denied access to the car seat buckle is more important in ensuring that the child remains restrained while in the car seat than the pounds of pressure needed to release the belt buckle (p. 46). [In the Yellowstone study, a car seat was used which had the belt buckle located in the same position as the Guardian belt buckle. The study revealed that the position of these belt buckles resulted in children rarely releasing the car safety seat harness buckle.]
 5. Push-button buckle release mechanisms with force requirements less than nine pounds were acceptable to parents (p. 32).
 6. An excessive force requirement is above the strength abilities of older people, e.g., grandparents, thus discouraging or making impossible the use of child car seats by the older persons. (p. 37, and p. 45, stating that the lower limit of thumb opposability strength of 61 to 94 year olds is thirteen pounds).
- No comments were received on the petition.
- The noncompliance that is the subject of the petition was confirmed by NHTSA in the course of its FY90 testing

program of child restraint systems manufactured by the petitioner and other companies. NHTSA conducted tests on five of petitioner's Gerry Guardian child restraint systems (agency file NCI 3149). With respect to the 9-pound requirement, one of the child restraint buckles released at 7.0 pounds, three at 8.0 pounds, and one passed at 9.0 pounds. The agency terminated its investigation when the petitioner made a determination that the seats failed to comply, and filed a Noncompliance Report, as required by 49 CFR part 573.

Petitioner's basic argument is that the Yellowstone study, completed in 1990, concluded that the ideal minimum release tension should be 5 pounds, as contrasted with the 9-pound minimum specified by Standard No. 213. NHTSA disagrees with this argument. The agency established its minimum as a means of assurance that children under the age of 4 years would not be able to unbuckle the release mechanism. This value was supported by the "Child Restraint Systems" study conducted by Peter W. Arnberg in 1975 for the National Swedish Road and Traffic Research Institute, which showed that approximately 50 percent of children aged 3½ to 4 years could release a buckle with 8.3 pounds of pressure.

Furthermore, the conclusions derived from the Yellowstone Study must be viewed in terms of the objective of the study. That objective was to establish criteria for an ideal child seat. One such criterion derived was a buckle release pressure of 5 pounds when the release strategy for unbuckling the seat is based on cognitive skills. However, since emergency situations require release strategies familiar to all people, a release approach based on cognitive skills is not acceptable as a basis for this regulation.

Petitioner also stated that its data showed that children under the age of 3 years are likely to use the seat, and that children of this age are physically incapable of releasing a belt buckle at 7 pounds. However, the agency notes that the instructions for the seat state that it is suitable for a child who weighs up to 40 pounds. According to the Highway Safety Research Institute's study titled Anthropometry of Infants, Children, and Youths to Age 18 for Product Safety Design, the mean weight of children ages 3½ to 4½ years is 35.64 pounds with a standard deviation of mean of 4.62 pounds. Therefore, the seat is designed for children whose ability to exert force on the release buckle exceeds the 8-pound average experienced in NHTSA's testing, but

does not reach the 9-pound minimum imposed by Standard No. 213.

Notwithstanding Petitioner's reservations, 9 pounds of force is not excessive and will not impede rescue of a restrained child in an emergency by either the child's mother or its grandparents. The Arnberg study showed that all of the adult women surveyed could operate buckle releases of up to 11.25 pounds force with only one hand. The Yellowstone Study referred to by Petitioner demonstrated that the lower thumb opposability strength of people 61 to 94 years of age is 13 pounds. Thus, neither mothers nor grandparents should experience

difficulty in releasing a buckle that provides a minimum release tension of 9 pounds.

Petitioner also argued that children escape from car seats through means other than releasing the belt buckle. The whole point of the child restraint standard is that children are best protected by being properly restrained in their child seats. If a child has been properly restrained according to the manufacturer's instructions, (s)he ought not be able to escape from a car seat unless the buckle is released. Maintenance and enforcement of the 9-pound minimum reduces the likelihood that a child whose age is less than 4

years will either inadvertently or deliberately release the buckle.

For the foregoing reasons, Petitioner has not met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is denied.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on July 24, 1991.

Stanley R. Scheiner,
Acting Associate Administrator for Rulemaking.

[FR Doc. 91-17962 Filed 7-29-91; 8:45 am]

BILLING CODE 4910-50-M

Sunshine Act Meetings

Federal Register

Vol. 56, No. 148

Tuesday, July 30, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, July 31, 1991.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Bicycle Helmet Petition CP 90-1.

The Commission will consider petition CP 90-1 from the Consumer Federation of America and other member organizations of the National Safe Kids Coalition which requests that the Commission set mandatory safety standards for bicycle helmets for children and adults.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492-6800.

Dated: July 24, 1991.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 91-18143 Filed 7-26-91; 2:18 pm]
BILLING CODE 6355-01-M

FEDERAL COMMUNICATIONS COMMISSION

July 25, 1991.

FCC To Hold Open Commission Meeting, Thursday, August 1, 1991

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, August 1, 1991, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, DC.

Item No., Bureau and Subject

- 1—Mass Media—Title: Remand from the U.S. Court of Appeals (D.C. Cir.) of *King Broadcasting Company, Inc. v. FCC*. Summary: The Commission will consider a ruling that programming proposed by King Broadcasting for coverage of 1988 Presidential campaign is not exempt as bona fide news from the equal opportunities provision of section 315 of the Communications Act.
- 2—Mass Media—Title: In the Matter of Television Satellite Stations; Review of

Policy and Rules (MM Docket No. 87-8). Summary: The Commission will consider adoption of a *Second Further Notice of Proposed Rule Making* to examine the relationship between satellite status and the nationwide multiple ownership rule.

- 3—Mass Media—Title: Policies and Rules Concerning Children's Television Programming; Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations (MM Docket Nos. 90-570 and 83-670). Summary: The Commission will consider petitions for reconsideration of the *Report and Order*, 6 FCC Rcd 2111 (1991), in this proceeding.
- 4—Common Carrier—Title: Provision of Access for 800 Service (CC Docket No. 88-10). Summary: The Commission will consider Petitions for Reconsideration of a *Report and Order* regarding the implementation of data base access for 800 service.
- 5—Common Carrier—Title: MTS and WATS Market Structure (CC Docket No. 78-72, Phase I). Summary: The Commission will consider local transport rate structure and pricing issues.
- 6—Common Carrier—Title: Competition in the Interstate Interexchange Marketplace (CC Docket No. 90-132). Summary: The Commission will consider adoption of a *Report and Order* concerning the level of competition in the interstate interexchange marketplace and adapting its regulatory policies to reflect this competition.
- 7—Common Carrier—Title: Investigation of AT&T Communications Tariff F.C.C. No. 15, Transmittal No. 1854, Competitive Pricing Plan No. 2, Resort Condominiums International, Inc. (CC Docket No. 90-11). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order* which terminates the investigation of this tariff transmittal.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Issued: July 25, 1991.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-18062 Filed 7-26-91; 10:28 am]

BILLING CODE 6712-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 25, 1991.

TIME AND DATE: 10:00 a.m., Thursday, August 1, 1991.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Westmoreland Coal Company*, Docket No. VA 90-28. (Issues include whether the judge erred in finding that Westmoreland violated 30 CFR § 75.1003 and that the violation was of a significant and substantial nature.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen, (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 (Toll Free).

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 91-18169 Filed 7-26-91; 3:13 pm]

BILLING CODE 6735-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-91-23]

TIME AND DATE: Thursday, August 8, 1991 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings.
2. Minutes.
3. Ratifications.
4. Petitions and complaints.
5. Inv. 731-TA-524 (Preliminary) (Steel Wire Rope from Canada)—briefing and vote.
6. Inv. 731-TA-476 and 479 (Final) (Steel Wire Rope from Argentina and Mexico)—briefing and vote.
7. Inv. 731-TA-483 (Final) (Certain Personal Word Processors from Japan)—briefing and vote.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary, (202) 205-2000.

Dated: July 26, 1991.
 Kenneth R. Mason,
 Secretary.
 [FR Doc. 91-18126 Filed 7-26-91; 2:17 pm]
 BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, August 6, 1991.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 31700, *Canadian Pacific Limited, et al.—Purchase and Related Trackage Rights—Delaware & Hudson Railway Company* Finance Docket No. 31805, *Canadian Pacific Limited and D&H Corporation—Trackage Rights Exemption—Consolidated Rail Corporation.*

Docket No. AB-308 (Sub-No. 1), *Central Michigan Railway Company—Abandonment—East of Ionia To West of Owosso—In Michigan.*

Docket No. AB-6 (Sub-No. 332), *Burlington Northern Railroad Company—Abandonment—In Otoe Nemaha Counties, Nebraska.*

CONTACT PERSON FOR MORE

INFORMATION: A. Dennis Watson, Office of External Affairs, Telephone: (202) 275-7252, TDD: (202) 275-1721.

Sidney L. Strickland, Jr.,
 Secretary.

[FR Doc. 91-18109 Filed 7-26-91; 2:16 pm]
 BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Friday, July 26, 1991 and Weeks of July 29, August 5, 12, and 19, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Friday, July 26

10:00 a.m.

Briefing by NRC Staff on Recommendations Regarding Yankee Rowe Pressure Vessel Embrittlement Issues (Public Meeting)

11:30 a.m.

Consideration of Commission's Options in Yankee Rowe Matters (Closed—Ex. 10)

Week of July 29

Tuesday, July 30

10:00 a.m.

Briefing on International Nuclear Reactor Safety (Closed—Ex. 1)

Wednesday July 31

1:30 p.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Commission Decision Regarding Yankee Rowe Reactor Vessel (Tentative)

Thursday, August 1

4:00 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 5—Tentative

Monday, August 5

10:00 a.m.

Briefing on AEOD Programs (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

3:00 p.m.

Discussion of Pending Investigations (Closed—Ex. 5 & 7)

Week of August 12—Tentative

Friday, August 16

10:00 a.m.

Briefing on Uncertainties in Implementing the EPA HLW Standards (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 19—Tentative

Wednesday, August 21

10:00 a.m.

Briefing by NUMARC on Program for Inspections, Tests, Analyses, and Criteria (ITAAC) for Advanced Reactors (Public Meeting)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.

Briefing by NRC Staff on International Programs (Public Meeting)

ADDITIONAL INFORMATION: By a vote of 4-0 on July 25, the Commission determined pursuant to U.S.C. 552b(e) and Sec. 9.107(a) of the Commission's rules that "Affirmation of Response to Emergency Motion for Stay on Behalf of Shoreham Petitioners" (Public Meeting), be held on July 25, and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492-0292.

CONTACT PERSON FOR MORE

INFORMATION: William Hill (301) 492-1661.

Dated: July 25, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91-18108 Filed 7-26-91; 2:15 pm]

BILLING CODE 7590-01-M

Reader Aids

Federal Register

Vol. 56, No. 146

Tuesday, July 30, 1991

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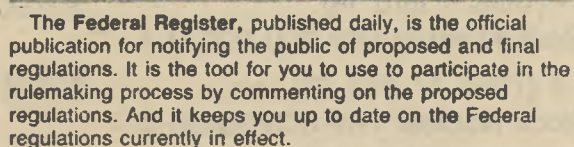
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